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Consolidated Laws of New York
Annotated

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THE CONSOLIDATED LAWS OF NEW YORK
ANNOTATED

The books of this edition are arranged and numbered as follows:

1. REPORT OF CONSOLIDATORS AND TREATISE ON STATUTES AND STATUTORY CONSTRUCTION
2. CONSTITUTION OF NEW YORK ANNOTATED, CONSTITUTION OF THE UNITED STATES, DECLARATION OF INDEPENDENCE AND MAGNA CHARTA
3. AGRICULTURAL (*Repealed*)
— AGRICULTURE AND MARKETS (*See Farms and Markets*)
3a. ARBITRATION
4. BANKING
5. BENEVOLENT ORDERS
6. BUSINESS CORPORATIONS
7. CANAL
7a. CITY HOME RULE
7a. CITY LOCAL OPTION (*Repealed*)
8. CIVIL RIGHTS
9. CIVIL SERVICE
9a. CONDEMNATION
10. CONSERVATION
10a. CO-OPERATIVE CORPORATIONS
11. COUNTY
12. DEBTOR AND CREDITOR
13. DECEDENT ESTATE
14. DOMESTIC RELATIONS
15. DRAINAGE (*Repealed*)
16. EDUCATION
17. ELECTION
18. EXECUTIVE
18a. FARMS AND MARKETS (*Now Agriculture and Markets*)
— GENERAL ASSOCIATIONS (*See Joint-Stock Association*)
19. GENERAL BUSINESS
20. GENERAL CITY
21. GENERAL CONSTRUCTION
22. GENERAL CORPORATION
22a. GENERAL HIGHWAY TRAFFIC
23. GENERAL MUNICIPAL
24. HIGHWAY
25. INDIAN
26. INSANITY (*Now Mental Hygiene*)
27. INSURANCE
28. JOINT-STOCK ASSOCIATION (*Now General Associations*)
29. JUDICIARY
30. LABOR
31. LEGISLATIVE
32. LIEN
33. LIQUOR TAX (*Repealed*)
34. MEMBERSHIP CORPORATIONS
34a. MENTAL DEFICIENCY (*Repealed*)
34a. MENTAL HYGIENE
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51. SALT SPRINGS
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60. TENEMENT HOUSE
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65. UNCONSOLIDATED LAWS
66. COMPLETE TABLE OF LAWS REPEALED
67. GENERAL INDEX

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THE CONSOLIDATED LAWS OF NEW YORK, ANNOTATED

AS AMENDED TO THE CLOSE OF THE REGULAR AND EXTRAORDINARY SESSIONS OF THE LEGISLATURE OF 1917

Compiled under the Editorial Supervision of
WILLIAM M. McKINNEY

BOOK 55
State Finance Law

EDWARD THOMPSON COMPANY
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1918

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JUN 30 1929

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STATE OF NEW YORK
OFFICE OF THE SECRETARY OF STATE } ss :

In pursuance of the authority vested in me, by section 932 of the Code of Civil Procedure, I, Francis M. Hugo, Secretary of State, hereby certify that the copies of the laws contained in this volume are correct transcripts of the text of the original laws, and in accordance with such section are entitled to be read in evidence.

Given under my hand and the seal of office of the Secretary of State, at the Capitol in the City of Albany, this 30th day of October, 1917.

[L. S.]

FRANCIS M. HUGO,
Secretary of State.

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The annotations in this book close with the cases reported in the following volumes:

220 New York
176 Appellate Division
99 Miscellaneous
164 New York Supplement

The Supplements will cover decisions from these points.

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STATE FINANCE LAW

LAWS 1909, CHAP. 58

AN ACT in relation to state finance, constituting chapter fifty-six of the consolidated laws.

Became a law February 17, 1909, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

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STATE FINANCE LAW

CHAPTER 56 OF THE CONSOLIDATED LAWS

Article 1. Short title (§ 1).
2. General fiscal provisions (§§ 2–51).
3. General fund (§§ 55, 56).
4. Canal funds (§§ 60–65).
5. Education fund (§§ 80–93).
6. Miscellaneous funds (§§ 100–103).
7. Laws repealed; when to take effect (§§ 110, 111).

ARTICLE 1

Short Title

Section 1. Short title.

§ 1. Short title. This chapter shall be known as the "State Finance Law."

The original State Finance Law was L. 1897, ch. 413.
What are public funds: see Ann. Cas. 1916B 1239 note.

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ARTICLE 2

General Fiscal Provisions

Section
2. Fiscal year.
2a. [Payment of salaries.]
3. Duties of treasurer.
4. Duties of comptroller.
5. Treasurer's checks and accounts.
6. Custody of state securities.
7. Examination of state securities.
8. Deposit in banks.
9. Monthly statement of balances in state depositories.
10. Deposit of moneys by state officers.
11. Deposit of moneys by charitable and benevolent institutions.
12. Proofs required upon audit by the comptroller.
13. Regulations for the transmission of public moneys.
14. Temporary loans and revenue bonds.
15. New in place of lost certificates.
16. Accounts and contracts.
17. Itemized and monthly accounts of public officers.
18. Inspection of supplies and entry in books.
19. Deposit in banks of moneys received by state institutions.
20. Annual inventory and report of institutions.
21. Rendition of accounts.
22. Statements of accounts not rendered.
23. Statements of accounts rendered.
24. Statement of joint accounts.
25. Other remedies preserved.
26. Foreclosures of mortgages by the state.
27. When comptroller shall bid in premises.
28. Conditions of sale.
29. Sale in parcels.
30. Separate accounts for lands purchased or mortgaged.
31. Discharge of mortgages by the state.
32. Surplus moneys on sale of lands mortgaged to the state.
33. Assignments of mortgages; releases from judgments.
34. Compromise of old judgments and debts.
35. Indebtedness not to be contracted without appropriation.
36. Specific appropriation not to be used for other purposes; items for certain purposes required to be specific.
37. Payments to state treasurer.

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Section 38. Contracts in pursuance of appropriations.
39. Acceptance of trusts by comptroller.
40. Gifts to the state of obligations of another state; how held.
41. Estimates for purchase of staple articles of supplies.
42. State raised products to be preferred.
42a. Emergency relief by state institutions during a state of war.
43. State contracts not to be assigned without consent; penalties if done.
43a. Retained percentages may be withdrawn.
44. When money paid into court to be paid to state treasurer.
45. Public accounts to be kept in dollars, dimes and cents.
46. Certain expenses shall be state charges.
47. Annual reports to legislature by institutions entitled to receive money from state.
48. Statement of desired appropriations to be filed with comptroller.
49. Duty of comptroller as to tabulation of statements.
50. Separate specifications for contract work for the state.
51. Workmen's compensation insurance on public works.

§ 2. Fiscal year. The fiscal year of all offices, asylums, hospitals, charitable and reformatory institutions in this state shall begin with the first day of [1]July and end with the next following thirtieth day of [2]June. All books and accounts in the offices of the comptroller and treasurer shall be kept by fiscal years. All annual accounts required to be rendered to the comptroller or treasurer by any person shall be closed on the thirtieth day of [2]June in each year, and rendered as soon thereafter as practicable, if no time is specially prescribed by law. [3]The first fiscal year under this section as hereby amended shall begin on the first day of July, nineteen hundred and sixteen; and the current fiscal year is hereby abridged, to end on the thirtieth day of June in such year.

Where any statute provides, in terms or effect, that any inventory or account, or a report relating in whole or in part to receipts and disbursements of money, be made to the legislature or any state officer annually, or for a year, by a board, commission or officer under the state government, such inventory or account, and such report so far as it relates to such receipts and disbursements, shall

[1] Formerly "October."
[2] Formerly "September."
[3] Remainder of section new.

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be for the preceding fiscal year, unless the calendar year be expressly mentioned.

This section was derived from State Finance Law, L. 1897, ch. 413, § 2. It was amended by L. 1916, ch. 118, § 1. The amendments are shown in the footnotes.

Year in statute: see GENERAL CONSTRUCTION LAW, § 58.

Fiscal year of state institutions: see STATE CHARITIES LAW, § 44.

Fiscal year in Village Law: see VILLAGE LAW, § 100.

§ 2-a. *[Payment of salaries.] The salaries of all officers of the state, and the wages of all employees thereof shall be due from and payable by the state twice each month, on the first and sixteenth days thereof, except where such days fall upon Sunday or a legal holiday when such payments shall be made upon the succeeding business day. Said salaries and wages shall be subject to all the provisions of section thirteen hundred and ninety-one of the code of civil procedure applicable to any wages, debts, earnings or salary, as if the state and the said wages and salary due and payable by it had been particularly designated therein. The provisions of this section shall be deemed to supersede any other provision of this chapter or of any general or special law inconsistent herewith.

New. Added by L. 1910, ch. 317, § 1.

Cash payment of wages and when wages are to be paid: see LABOR LAW, §§ 10, 11.

Holidays and half-holidays: see GENERAL CONSTRUCTION LAW, § 24.

Application of section.—This section applies to justices of the supreme court and judges of the court of appeals. Op. Atty.-Gen. (1910) 499.

The section applies also to the employees of all state institutions. Op. Atty.-Gen. (1910) 946.

Likewise it applies to special agents appointed under section 7 of the Liquor Tax Law. Op. Atty.-Gen. (1910) 758.

§ 3. Duties of treasurer. The treasurer shall receive all moneys paid into the treasury of the state, pay all warrants drawn by the comptroller on the treasury, make no payment out of the treasury except on the warrant of the comptroller, unless otherwise provided by law, and annually report to the legislature an exact statement of the balance in the treasury, at the close of the preceding fiscal year, with a summary of the receipts into and payments from the treasury during such year.

This section was derived from State Finance Law, L. 1897, ch. 413, § 3.

Treasurer to keep account of United States deposit fund: see infra, § 82.

Military record fund: see infra, § 100.

Duty of treasurer as to chancery fund and prison fund: see infra, §§ 102, 103.

Election, term of office and compensation of state treasurer: see CONSTITUTION, Art. V, § 1.

Suspension of treasurer by governor: see CONSTITUTION, Art. V, § 7.

Removal of treasurer: see PUBLIC OFFICERS LAW, § 32.

* Enacted without heading.

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Seal of treasurer: see PUBLIC OFFICERS LAW, § 60.

Treasurer to countersign transfer of securities held by superintendent of insurance: see INSURANCE LAW, § 15.

Treasurer to be commissioner of land office, canal fund and member of canal board: see CONSTITUTION, Art. V, § 5.

To be member of state board of canvassers: see ELECTION LAW, § 441.

Collection of notaries' fees: see EXECUTIVE LAW, § 53.

Duties and salary regarding registered insurance policies: see INSURANCE LAW, §§ 74, 75.

Special reports to legislature: see EXECUTIVE LAW, § 80.

Certain searches made by and for state treasurer to be free: see EXECUTIVE LAW, § 84.

Designation of state paper by treasurer: see EXECUTIVE LAW, § 82.

Vacancy in office of treasurer to be filled by legislature: see PUBLIC OFFICERS LAW, § 41.

General provisions regarding state treasurer: see EXECUTIVE LAW, § 50 et seq.

Right of treasurer to select banks from which moneys shall be drawn.—When certificates are drawn upon the state treasurer by the comptroller the treasurer has the right to draw upon the state deposits in such institutions as he may desire for the payment of the certificates, and it is the duty of the comptroller to countersign the checks. Op. Atty.-Gen. (1911) 273.

See in this connection People v. Bristol, (1869) 1 Lans. 45.

Cited.—This section was cited in Op. Atty.-Gen. (1911) 215, in connection with the question of the return of fines and penalties collected and paid to state treasurer under section 290 of the Highway Law.

It was cited in Op. Atty.-Gen. (1909) 396, in connection with the question as to the method of payment of department employees.

It was cited in People v. Bank of North America, (1879) 75 N. Y. 547, in connection with the question of the authority of a cashier in the state treasurer's office to endorse drafts delivered into the office.

It was cited in Op. Atty.-Gen. (1909) 401, in connection with the question as to the duty of the state treasurer where an assignment of moneys due under a contract for a public improvement is filed in his office under the provisions of section 16 of the Lien Law.

§ 4. Duties of the comptroller. The comptroller shall:

1. Superintend the fiscal concerns of the state.

2. Keep, audit and state all accounts in which the state is interested, and keep accurate and proper books, showing their conditions at all times.

3. Examine, audit and settle the accounts of all public officers and other persons indebted to the state, and certify the amount or balance due thereon.

4. Examine, audit and liquidate the claims of all persons against the state, if payment thereof out of the treasury is provided for by law.

5. Draw warrants on the treasury for the payment of the moneys directed by law to be paid out of the treasury, but no such warrant shall be drawn unless authorized by law, and every such warrant shall refer to the law under which it is drawn.

Amended by L. 1913, ch. 342, § 1. This amendment omitted the remainder of the subdivision which read as follows: "Whenever the comptroller shall be satisfied that moneys have been paid into the treasury through mistake, he may draw his warrant therefor on the treasurer, in favor of the person who may have made such payment; but this provision shall not extend to payments on account of taxes, nor to payments on bonds and mortgages." The omitted matter was derived from R. S. Pt. 1, ch. 8, tit. 3, § 15.

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6. Make a report to the legislature at its annual session, containing a complete statement of the funds of the state, its resources and public expenditures during the preceding fiscal year, a statement of each object of expenditure, the funds, if any, from which it is to be defrayed, and a statement of all claims against the state presented to him where no provision or an insufficient provision for the payment thereof has been made by law, with the facts relating thereto and his opinion thereon, and suggesting plans for the improvement and management of the public resources, and containing such other information and recommendations relating to the fiscal affairs of the state, as in his judgment should be communicated to the legislature. He shall also report to the legislature on or before February first in each year the expenditures, except for construction work and permanent betterments, of each state department, commission, board, bureau, office and institution, for the first six months of the then current fiscal year.

This subdivision was derived from State Finance Law, L. 1897, ch. 413, § 4, subd. 6, as amended by L. 1905, ch. 504, § 1. It was amended by L. 1916, ch. 118, § 2. This amendment added the last sentence in the subdivision.

7. Represent and vote for the state, either in person or by proxy, at all meetings and on all occasions where the state is entitled to representation or vote as stockholder in a corporation or joint-stock association.

8. Supervise the administration of all the funds paid into any court of record, or ordered to be so paid by a judgment, order or decree of any such court of record. He shall have power and authority to institute proceedings to enforce obedience to the judgments, orders or decrees of the said courts for the deposit of moneys and securities into court, and prescribe regulations and rules for the care and disposition thereof, which shall be observed by all parties interested therein, unless the court having jurisdiction over the same, shall make different directions, by special order duly entered in accordance with section seven hundred and forty-seven of the code of civil procedure; and the comptroller may at any time require any county clerk or clerk of any court of record, to file with any county treasurer an officially certified copy of any record, document or paper, or extracts therefrom, which he may deem necessary for the use of said county treasurer in the administration of such funds.

The comptroller shall not designate as a depositary of funds or moneys paid into court any trust company, bank, banking association or banker, unless it shall pay a fair rate of interest on deposits thereof; and before making any deposit in any such depositary of funds or moneys paid into court, the comptroller shall require such depositary to execute to the people of the state an undertaking in such form as the attorney-general shall prescribe,

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and in an amount approved by the county judge of the county where such trust company, bank, banking association or banker is located, and by the comptroller. Such undertaking shall be filed in the office of the comptroller and shall be secured by a deposit of bonds as provided in section eight of this article. Or, in lieu of such undertaking and deposit of securities, the comptroller may require such depositary to execute to the people of the state of New York an undertaking, with a surety company authorized to transact business in the state of New York as surety, in such form as the attorney-general shall prescribe, and in an amount approved by the county judge of the county where such trust company, bank, banking association or banker is located, and by the comptroller.

This subdivision was derived from Code Civ. Pro. § 744 pt. It was amended by L. 1914, ch. 205 which added to the first sentence the words "or ordered . . . such court of record." It also added the first part of the second sentence: "He shall have power . . . moneys and securities into court." It was also amended by L. 1915, ch. 415, which added the last paragraph to the section, except the last sentence. It was further amended by L. 1917, ch. 136, § 1, which added the last sentence to the subdivision.

This section was derived from State Finance Law, L. 1897, ch. 413, § 4. Subdivision 5 was amended by L. 1913, ch. 342; subdivision 6 was amended by L. 1916, ch. 118, § 2; subdivision 8 was amended by L. 1914, ch. 205, by L. 1915, ch. 415, and by L. 1917, ch. 136. These amendments are noted under the affected subdivision.

Approval of bonds of banks receiving deposits from state institutions: see infra, § 19.

Comptroller to require rendition of accounts and to state accounts not rendered: see infra, §§ 21, 22.

Separate accounts for lands purchased or mortgaged: see infra, § 30.

Acceptance of trusts by comptroller: see infra, § 39.

Authorization of estimates for supplies for state institutions: see infra, § 41.

Statement of desired appropriations to be filed with comptroller: see infra, § 48.

Duty of comptroller as to tabulation of statements: see infra, § 49.

Charges on canal fund: see infra, § 63.

When comptroller may issue bonds for canal purposes: see infra, § 65.

Comptroller to invest educational funds: see infra, § 81.

To keep account of United States deposit fund: see infra, § 82.

When comptroller to perform duties of United States loan commissioners: see infra, § 83.

When comptroller may direct discharge and cancellation of mortgages held by United States loan commissioners: see infra, § 83.

Duty of comptroller as to United States deposit fund mortgages: see infra, §§ 85, 86, 87, 88, 89, 90, 91.

Payments to Cornell University on account of college land script fund: see infra, § 93.

Jurisdiction of comptroller over mariners', chancery and prison funds: see infra, §§ 101, 102, 103.

Election, term of office and compensation of comptroller: see CONSTITUTION, Art. V, § 1.

Comptroller to be commissioner of land office, canal fund and member of canal board: see CONSTITUTION, Art. V, § 5.

To be member state board of canvassers: see ELECTION LAW, § 441. *Member of state printing board:* see STATE PRINTING LAW, § 4.

Seal of comptroller: see PUBLIC OFFICERS LAW, § 60.

Removal of comptroller: see PUBLIC OFFICERS LAW, § 32.

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Vacancy in office to be filled by legislature: see PUBLIC OFFICERS LAW, § 41.

To whom comptroller may resign: see PUBLIC OFFICERS LAW, § 31, subd. 1.

Special reports to legislature: see EXECUTIVE LAW, § 80.

Designation of state paper: see EXECUTIVE LAW, § 82.

Clerks of prisons to be appointed by comptroller: see CONSTITUTION, Art. V, § 4; PRISON LAW, § 110.

Supplies to be furnished prison commission: see PRISON LAW, § 44.

Reports to legislature to include financial condition of prisons: see PRISON LAW, § 193.

Designation of banks for convicts' deposits and earnings: see PRISON LAW, § 125.

Designation of banks of deposit for prisons and reformatories: see PRISON LAW, §§ 193, 294.

Visitation of state prisons: see PRISON LAW, § 160.

Approval of bonds of banks of deposit for prisons: see PRISON LAW, §§ 125, 193.

Comptroller to devise and furnish system of accounts for prison labor: see PRISON LAW, § 184.

Certain searches by and for comptroller to be free: see EXECUTIVE LAW, § 84.

Duty regarding ticket agencies receiving money deposits: see GENERAL BUSINESS LAW, § 151.

Duty as to private detectives: see GENERAL BUSINESS LAW, § 70 et seq.

Duties regarding auctioneers in cities: see GENERAL BUSINESS LAW, §§ 23, 24.

Issue of license to sell convict-made goods: see LABOR LAW, §§ 190, 191.

Right to visit county jails and workhouses: see COUNTY LAW, § 101.

Action to recover court and trust funds: see COUNTY LAW, § 249.

Examination of fiscal accounts of municipal corporations: see GENERAL MUNICIPAL LAW, § 30 et seq.

Payment and distribution of state money for highways: see HIGHWAY LAW, § 103.

Warrant of comptroller for payment of cost of state highway: see HIGHWAY LAW, § 144.

Preparation and bestowal of life-saving medals: see EXECUTIVE LAW, § 44.

Quarterly account of fees: see EXECUTIVE LAW, § 81.

Reports to comptroller by membership corporations receiving state moneys: see MEMBERSHIP CORPORATIONS LAW, § 17.

Duty of comptroller regarding salaries of officers and employees of state hospitals for insane: see INSANITY LAW, § 49.

Appointment of person to examine securities deposited with superintendent of banks: see BANKING LAW, § 36.

Sales by comptroller for unpaid taxes: see TAX LAW, § 120 et seq.

Comptroller not to be interested in tax sales: see PENAL LAW, § 1827.

Supervisory powers of comptroller over mortgage taxation: see TAX LAW, § 263.

Duties as to tax sales by county treasurers: see TAX LAW, § 151.

Duties as to stock transfer tax: see TAX LAW, § 276.

Supervision over taxable transfers: see TAX LAW, § 225 et seq.

General provisions relating to comptroller: see EXECUTIVE LAW, § 40 et seq.

Power of comptroller to withhold payment of school moneys: see EDUCATION LAW, § 500.

Supervision of comptroller over court funds: see Code Civil Procedure, § 744.

Discretion in audit.—The comptroller, intrusted, as he is with judicial powers, cannot prejudge a claim presented to him. Not only has he power to vary in certain instances the application of the rules he has laid down but it is his duty and the absolute right of the claimant that the comptroller depart from such regulations where the particular facts warrant the allowance of the claim. Op. Atty.-Gen. (1914) 72.

The comptroller, in auditing claims or accounts, exercises a judicial function and his decision, within reasonable limits, is conclusive. Op. Atty.-Gen. (1912) 370.

Mandamus to compel audit.—The auditing of an account or claim by the

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comptroller involves a judicial function which he cannot be required to exercise in any particular way by mandamus. People v. Roberts, (1900) 163 N. Y. 70, 57 N. E. 98, reversing judgment 45 App. Div. 145, 61 N. Y. S. 148; People v. Travis, (1916) 175 App. Div. 721, 161 N. Y. S. 860, reversing 96 Misc. 490, 160 N. Y. S. 737. See also Buffalo v. State (1906) 116 App. Div. 539, 101 N. Y. S. 595, affirmed (1908) 191 N. Y. 534, 84 N. E. 1110.

Power of audit of expenditures of Panama-Pacific Commission.—It was ruled in Op. Atty.-Gen. (1916) 148, that the state comptroller had no power of audit of the expenditures of the Panama-Pacific commission.

Claim against date for work under contract.—A claim against the state for work performed under a contract, for the payment of which money has been provided under the appropriation or supply bills, must, under the present section be presented to the comptroller for audit, and must be deemed withdrawn from the jurisdiction of the court of claims by that portion of section 264 of the Code of Civil Procedure providing that such court "has no jurisdiction of a claim submitted by law to any other tribunal or officer for audit or determination. If the comptroller exceeds his power in allowing, as payment, less than the contract price, the claimant's remedy is by direct proceeding against him to review the audit. Quayle v. State (1908) 192 N. Y. 47, 84 N. E. 583, affirming 124 App. Div. 81, 108 N. Y. S. 361.

Securities of incompetent as within jurisdiction of comptroller.—It has been ruled that securities of an incompetent held temporarily by a county treasurer under direction of an order appointing a committee for the incompetent, until the committee qualifies, are not funds paid into court within the meaning of subdivision 8 of the present section. Op. Atty.-Gen. (1915) 303, 5 St. Dept. Rep. 459.

Duty of comptroller upon improper orders of court for deposit of money.—It is the duty of the comptroller, if he deems improper an order of the court directing the deposit of money paid into court, to make an application for the correction of the order. Op. Atty.-Gen. (1911) 516.

Warrant for money paid into treasury by mistake.—Where the secretary of state has deposited in the state treasury the application fee for a chauffeur's license which the secretary of state refuses to issue, the comptroller may draw his warrant for the fee in favor of the applicant. Op. Atty.-Gen. (1911) 278.

Power to release securities on steamship agency bonds.—The comptroller has not the power to release the securities on bonds filed in his office by steamship agencies pursuant to article 10 of the General Business Law. The legislature alone can make provision for such release. Op. Atty.-Gen. (1909) 382.

Cited.—This section was cited in Matter of Walsh, (1912) 204 N. Y. 276, 97 N. E. 715, in connection with the construction of section 744a of the Code of Civil Procedure, relating to the examination by the comptroller of the books of banks and trust companies or other depositories, in relation to moneys and securities paid into court.

It was cited in Op. Atty.-Gen. (1909) 397, in connection with the question as to the method of payment of department employees.

It was cited in Op. Atty.-Gen. (1899) 175, in connection with the question as to the power of the comptroller to audit printed bills for printing done under section 2 of chapter 287 of the Laws of 1897.

It was cited in Fifth Ave. Coach Co. v. State, (1911) 73 Misc. 498, 131 N. Y. A. 62, in connection with the construction of section 264 of the Code of Civil Procedure, relating to jurisdiction of the court of claims.

It was cited in Op. Atty.-Gen. (1915) 127, in connection with the construction of section 36. See infra, § 36, note.

It was cited in Op. Atty.-Gen. (1911) 273, in connection with the question of countersigning treasurer's checks. See supra, § 3, note.

§ 5. Treasurer's checks and accounts. The comptroller shall countersign and enter in the proper books of his department all checks drawn by the treasurer and all receipts for money paid to the treasurer. Duplicate checks in lieu of issued checks lost or destroyed may be executed by the treasurer and comptroller to

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persons entitled to payment thereof upon such proofs and conditions as the treasurer and comptroller may in their discretion require to indemnify the state against loss. No such receipt shall be evidence of payment unless so countersigned. He shall keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him. He shall draw, in favor of the treasurer, on all corporations or companies in which the state may own stock, for the dividends on such stock as they become due. He shall procure from the books of the banks in which the treasurer makes his deposits, monthly statements of the moneys received and paid out of the same on account of the treasurer. On the first Tuesday of every month or oftener if he deem it necessary, he shall carefully examine the accounts of the debits and credits in the bank-books kept by the treasurer. If he discovers any irregularity or deficiency therein, he shall, unless rectified or explained to his satisfaction, forthwith report the same to the governor.

This section was derived from State Finance Law, L. 1897, ch. 413, § 5, as amended by L. 1904, ch. 95, § 1.

Cited.—This section was cited in Op. Atty.-Gen. (1911) 273, in connection with the question as to the right of the state treasurer to select banks from which moneys shall be drawn to pay comptroller's certificates. See supra, § 3, note.

It was cited in Op. Atty.-Gen. (1909) 396, in connection with the question as to the method of payment of department employees.

§ 6. Custody of state securities. All leases, bonds, mortgages, certificates of stock and other securities belonging to the state, and all papers relating to the duties of the comptroller, or of the comissioners of the canal fund, or of the canal board, all deeds to the state, abstracts of title, and state contracts, unless otherwise specially directed, shall be deposited in the office of the comptroller.

This section was derived from State Finance Law, L. 1897, ch. 413, § 6.

Application of section.—The present section refers to securities and evidences of indebtedness owned by the state. Guaranty bonds by depositories of state moneys must be filed with the state treasurer, as provided in section 8. Op. Atty.-Gen. (1909) 388.

§ 7. Examination of state securities. The comptroller from time to time, shall examine the securities on which money may be due to the state, and make inquiries relating to the sufficiency of the security for the payment of such money. He shall require the immediate payment of all interest due, and the payment of such part of the principal as he deems necessary for the security and interest of the state.

This section was derived from State Finance Law, L. 1897, ch. 413, § 7.

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§ 8. Deposit in banks. The state treasurer shall deposit all moneys received by him on account of the state, except such as belong to the canal fund, within three days after receiving the same, in such banks in the cities of the state, as in the opinion of the comptroller and treasurer are secure and pay the highest rate of interest to the state for such deposits. The moneys so deposited shall be placed to the account of the treasurer. He shall keep a bank-book in which shall be entered his account of deposit in and moneys drawn from the banks in which deposits are made by him, which he shall exhibit to the comptroller for his inspection on the first Tuesday of every month and oftener if required. The treasurer shall not draw any moneys from such banks unless by checks subscribed by him as treasurer and countersigned by the comptroller, unless otherwise provided by law. No moneys shall be paid by any such bank out of any such deposit except upon such checks. Every such bank shall transmit to the comptroller monthly statements of all moneys received and paid by it on account of the treasurer.

Banks designated for the deposit of state moneys under the provisions of this section shall before deposits are made severally execute and file with the treasurer a bond to the state in such form and with such surety or sureties for such sum as may be prescribed and approved by the treasurer and comptroller, for the safe keeping and prompt payment of such moneys on legal demand therefor with interest at the rate agreed upon, or may in lieu of such surety bond deposit with the comptroller outstanding unmatured bonds issued by the state of New York for which the treasurer and comptroller shall deliver a certificate of deposit containing the conditions of said surety bond. On the withdrawal of all moneys from any depository and a closing and settlement of the account thereof, the treasurer and comptroller may in their discretion certify to such settlement and direct the surrender of such surety bond or deposit to the obligors or owner entitled thereto.

This section was derived from State Finance Law, L. 1897, ch. 413, § 8, as amended by L. 1905, ch. 372, § 1.

Rights, duties, and liabilities of depositaries of public funds: see Ann. Cas. 1916B 1239 note.

Deposit of public funds as preferred claim against insolvent bank: see notes, Ann. Cas. 1916B 1264; L. R. A. 1917A 683; 5 L. R. A. (N. S.) 886; 16 L. R. A. (N. S.) 918.

Deposit in bank as investment within statute requiring investment of public funds: see 50 L. R. A. (N. S.) 274 note.

Agreement between banks to prevent competition for deposit of public moneys: see 14 L. R. A. (N. S.) 1452 note.

Liability of sureties on bond of bank as depository of public funds as affected by acquiescence or connivance of public officials in misuse of funds: see 26 L. R. A. (N. S.) 865 notes.

Liability of treasurer for funds in his keeping.—The state treasurer, while he is liable for all funds in his hands, is not liable for those funds properly

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placed in duly designated depositories which have given the required security and performed the conditions required by law. Op. Atty.-Gen. (1911) 124; Op. Atty.-Gen. (1909) 389.

Sufficiency of bonds with personal securities.—It has been ruled that bonds executed by personal securities and secured by the deposit of collateral satisfactory to the treasurer and comptroller may be accepted from depositories of state funds. Op. Atty.-Gen. (1911) 124; Op. Atty.-Gen. (1909) 395.

One bond for general and canal funds.—Depositories may give one bond as security for deposits of both general and canal funds. Op. Atty.-Gen. (1910) 577.

As to deposit of canal funds, see infra, § 62.

Office where bond is to be filed.—Banks designated for deposit of state moneys must file the statutory bond with the state treasurer and not with the comptroller. Op. Atty.-Gen. (1911) 124; Op. Atty.-Gen. (1909) 388.

Cited.—This section was cited in Op. Atty.-Gen. (1909) 396, in connection with the question as to the method of payment of salaries to department employees.

It was cited in Op. Atty.-Gen. (1911) 273, in connection with the question of right of selection by treasurer of banks from which moneys are to be drawn in payment of certificates from the comptroller's office. See supra, § 3, note.

§ 9. Monthly statement of balances in state depositories. The state treasurer shall cause to be published in the state paper, on or before the tenth day of each month, a detailed statement of the balances in the several banks designated by any state officer or board as a depository of state funds. Such statement shall contain the name of each bank and the amount subject to draft at the close of the month preceding such publication. All officers, departments, commissions or boards receiving fees or penalties shall certify to the comptroller, on or before the tenth day of January, April, July and October in each year, the amount of moneys on their hands or on deposit at the close of the quarter preceding in the banks designated to receive such deposits, and shall pay over such amount at once to the treasurer of the state.

This section was derived from State Finance Law, L. 1897, ch. 413, § 9. *Designation of state paper:* see EXECUTIVE LAW, § 82.

§ 10. Deposit of moneys by state officers. Every state officer or other person except the state treasurer, receiving or disbursing moneys belonging to the state, shall deposit at such rate of interest as the comptroller may fix all the moneys received by him, to his official credit in a bank or trust company, to be designated by the comptroller, which shall give a bond with sufficient sureties for the security of such deposit, to be approved by the comptroller and filed in his office, or may, in lieu of such surety bond, deposit with the comptroller outstanding unmatured bonds issued by the state of New York for which the comptroller shall deliver a certificate of deposit containing the conditions of said surety bond. On the withdrawal of all moneys from any such depository and a closing and settlement of the account thereof, the comptroller may in his discretion certify to such settlement and direct the surrender

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of such surety bond or deposit to the obligors or owner entitled thereto.

This section was derived from State Finance Law, L. 1897, ch. 413, § 10. It was amended by L. 1911, ch. 294, § 1.

Liability of public officer for interest received on public funds: see notes, 8 Ann. Cas. 391; Ann. Cas. 1912C 1137: 15 L. R. A. 456.

Liability of public officer for loss of public money: see notes, 17 Ann. Cas. 929; Ann. Cas. 1914C 492; 36 L. R. A. (N. S.) 285.

Additional bond to official depositing money.—It has been ruled that the superintendent of public works need not require of the bank receiving funds deposited by him as superintendent an additional bond running to himself. The bond running to the state meets the requirements of the statute. Op. Atty.-Gen. (1911) 27.

Cited.—This section was cited in Op. Atty.-Gen. (1912) 316, in connection with the question of the deposit of the retirement fund created under section 110 of the Insanity Law.

It was cited in Op. Atty.-Gen. (1912) 261, in connection with the question of the use by the state hospital commission of funds derived from manufacturing carried on in the state hospitals, for the maintenance of the manufacturing departments.

It was cited in Op. Atty.-Gen. (1901) 191, in connection with the question of the deposit by the Matteawan state hospital monthly with the state treasurer moneys received from sources other than the state. See infra, § 37, note.

§ 11. Deposit of moneys by charitable and benevolent institutions. Every charitable and benevolent institution supported, in whole or in part, by the state, shall deposit at interest, all its funds received from the state in a bank or trust company, which shall give a bond with sufficient sureties for the security of such deposit, to be approved by the comptroller and filed in his office, or may, in lieu of such surety bond, deposit with the comptroller outstanding unmatured bonds issued by the state of New York for which the comptroller shall deliver a certificate of deposit containing the conditions of said surety bond. On the withdrawal of all moneys from any such depository and a closing and settlement of the account thereof, the comptroller may in his discretion certify to such settlement and direct the surrender of such surety bond or deposit to the obligors or owner entitled thereto.

This section was derived from State Finance Law, L. 1897, ch. 413, § 11. It was amended by L. 1911, ch. 295, § 1.

Monthly statement of receipts and expenditures by treasurer of each state institution: see STATE CHARITIES LAW, § 46.

Cited.—This section was cited in Op. Atty.-Gen. (1901) 191, in connection with the construction of section 37. See infra, § 37, note.

§ 12. Proofs required upon audit by the comptroller. The comptroller shall not draw his warrant for the payment of any sum appropriated, except for salaries and other expenditures and appropriations, the amounts of which are duly established and fixed by law, until the person demanding the same presents to him a detailed statement thereof in items and makes all reports required of him by law. If such statement is for services rendered or articles furnished, it must show when, where, to whom and

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under what authority they were rendered or furnished; if for traveling expenses, the distance traveled, between what places, the duty or business for the performance of which the expenses were incurred, and the dates and items of each expenditure; if for transportation, furniture, blank and other books purchased for the use of offices, binding, blanks, printing, stationery, postage, cleaning and other necessary and incidental expenses, a bill duly receipted must be attached to the statement. Each statement of accounts must be verified by the person presenting the same to the effect that it is just, true and correct, that no part thereof has been paid, except as stated therein, and that the balance therein stated is actually due and owing. No payment shall be made to any salaried state officer or commissioner having an office established by law, for personal expenses incurred by him while in the discharge of his duties as such officer or commissioner at the place where such office is located. No manager, trustee or other officer of any state charitable or other institution, receiving moneys from the state treasury in whole or in part for the maintenance or support of such institution, shall be interested in any purchase or sale by any of such officers.

This section was derived from State Finance Law, L. 1897, ch. 413, § 12.

Prison officers not to be interested in prison contracts: see PENAL LAW, § 1828.

Auditing and paying fraudulent claims upon the state: see PENAL LAW, § 1863.

Obtaining proceeds of fraudulent audit or payment: see PENAL LAW, § 1864.

Officials not to be interested in sales, leases, or contracts: see PENAL LAW, § 1868.

Fraudulently presenting bills or claims to public officers: see PENAL LAW, § 1872.

Expenses of health department official in traveling from home to Albany.—It was ruled in Op. Atty.-Gen. (1907) 295, that a salaried officer in the department of health was not entitled to be reimbursed for personal expenses incurred in traveling from his home at Rochester to Albany, when that travel was undertaken by him, not in the discharge of his official duty, but in order that he might present himself for duty where it was required at the office of the department.

See in this connection Op. Atty.-Gen. (1906) 319.

Game protectors as entitled to expenses.—Under chapter 811 of the Laws of 1911, game protectors from districts other than that which includes Albany are entitled to their expenses while engaged in work in Albany under the orders of the conservation commission or chief protector. Op. Atty.-Gen. (1912) 367.

Compare Op. Atty.-Gen. (1912) 286, wherein it was ruled that a special agent of the conservation commission was not entitled to payment for his expenses while in Albany in connection with his official duties.

Expenses of employee while distant from home.—It has been ruled that the comptroller may allow the expense of meals of an employee of a state department while engaged in field work at such a distance from his home and headquarters as to prohibit his returning therefor without materially shortening his hours of labor. Op. Atty.-Gen. (1911) 452.

Mandatory character of provision for receipt.—The provision of the present section that the detailed statement of items furnished the state must be accompanied by a receipted bill is mandatory, and payment cannot be made by the comptroller in the absence of such receipt. Op. Atty.-Gen. (1910) 534.

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Cited.—This section was cited in Op. Atty.-Gen. (1914) 72, in connection with the question of discretion of comptroller in audit of claims. See supra, § 4, note.

It was cited in Op. Atty.-Gen. (1910) 450, in connection with the question of payment by the comptroller of orders of the Saratoga Springs State Reservation Commission.

It was cited in Op. Atty.-Gen. (1910) 513, in connection with the question of payment by the commissioner of excise of expenses of special agents in his department, under the appropriation act of 1909 (L. 1909, ch. 432).

§ 13. Regulations for the transmission of public moneys. The comptroller may make such regulations and give such directions from time to time, respecting the transmission to the treasury of moneys belonging to the state from the several county treasurers and other public officers as in his judgment is most conducive to the interests of the state. He may, in his discretion, audit, allow and cause to be paid the expenses necessarily incurred under or in consequence of such regulations and directions or so much thereof as he deems equitable and just.

This section was derived from State Finance Law, L. 1897, ch. 413, § 13.

§ 14. Temporary loans and revenue bonds. From time to time as the legal demands on the treasury render it necessary, the comptroller may make such temporary loans at a rate of interest not exceeding five per centum per annum, as are necessary to discharge such demands, and may issue transfer certificates for the amount borrowed, with interest, payable semi-annually, and the principal payable at such time or times not exceeding seven years, at which, in his opinion, the treasury will be in a condition to pay the same from the revenues of the state applicable to their payment, and so much of such revenues as will be sufficient to pay the amount borrowed, are pledged to that object. The comptroller may issue bonds in anticipation of revenues derived from taxes authorized by law to be collected for the current expenses of the government, not exceeding six millions of dollars in any one year, payable within six months of the date of issue and drawing interest at the least rate obtainable by him. The proceeds of such bonds shall be applied in payment of the current expenses of the government and to no other object. When received into the treasury so much as may be necessary of these revenues in anticipation of which any such bonds are issued shall be applied exclusively to the payment of the principal and interest of such bonds. The comptroller is authorized to issue, whenever he may deem it for the best interests of the state so to do, bills or notes at a rate of interest not exceeding five per centum per annum, hereinafter described as "notes," maturing within a period not to exceed one year, in anticipation of the sale of bonds duly authorized at the time such notes are issued. The proceeds of the sale of such notes shall be used only for

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the purposes for which may be used the proceeds of the sale of bonds in anticipation of the sale whereof the notes were issued. All of such notes and any renewals thereof shall be payable at a fixed time, from the proceeds of the sale of bonds, and no renewal of any such note shall be issued after the sale of bonds in anticipation of which the original note was issued. In the event that a sale of such bonds shall not have occurred prior to the maturity of the notes so issued in anticipation of such sale the comptroller shall, in order to meet the notes then maturing, issue renewal notes for such purpose. Every such note and renewal note shall be payable from the proceeds of the next succeeding sale of bonds and not otherwise. The total amount of such notes or renewals thereof issued and outstanding shall at no time exceed [1]the total amount of bonds authorized to be issued and if no sale of bonds shall have been held within six months preceding the issue of such notes then the total amount of such notes or renewals thereof, issued and outstanding, shall at no time exceed [1]the total amount of bonds authorized to be issued on the date, which shall be six months after such last preceding sale. The comptroller shall include in his annual report, a detailed statement of all such loans made and bonds issued during the year and of his proceedings in relation thereto.

This section was derived from State Finance Law, L. 1897, ch. 413, § 14, as amended by L. 1902, ch. 366, § 1. It was amended by L. 1913, ch. 645. This amendment added the matter following the fourth sentence and beginning "The comptroller is authorized to issue . . . ," except the last sentence in the section. It also amended the last sentence by substituting the words "The comptroller" in place of "He" at the beginning of the sentence. The section was further amended by L. 1915, ch. 333. This amendment is shown in the footnote.

Power to contract state debts: see CONSTITUTION, Art. VII, § 2.

Application of moneys: see CONSTITUTION, Art. VII, § 2.

State bond issue: see CONSTITUTION, Art. VII, § 4.

Sinking fund: see CONSTITUTION, Art. VII, §§ 4, 5, 11.

Constitutionality.—It was ruled in Op. Atty.-Gen. (1915) 161, that the present section was not violative of the debt limitation provision of sections 2 and 4 of article VII of the state constitution.

§ 15. New in place of lost certificates. The comptroller may issue to the lawful owner of any certificate or bond issued by him in behalf of this state, which he is satisfied, by due proof filed in his office, has been lost or casually destroyed, a new certificate or bond, corresponding in date, number and amount with the certificate or bond so lost or destroyed, and expressing on its face that it is a renewed certificate or bond. No such renewed certificate or bond shall be issued unless sufficient security is given to satisfy the lawful claim of any person to the original certificate or bond, or to any interest therein. The comptroller shall report

[1] "one-half of" omitted.

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annually to the legislature the number and amount of all renewed certificates or bonds so issued.

This section was derived from State Finance Law, L. 1897, ch. 413, § 15.

§ 16. Accounts and contracts. The comptroller shall prepare a form of accounts to be observed in every state charitable institution, reformatory, house of refuge, industrial school, department, board or commission, which shall be accepted and followed by them respectively, after thirty days' notice thereof. Such forms shall include such a uniform method of bookkeeping, filing and rendering of accounts as may insure a uniform statement of purchase of like articles, whether by the pound, measure or otherwise, as the interests of the public service may require, and a uniform method of reporting in such institutions and departments, the amount and value of all produce and other articles of maintenance raised upon the lands of the state, or manufactured in such institution, and which may enter into the maintenance of such institution or department. All purchases for the use of any department, office or work of the state government shall be for cash. Each voucher, whether for a purchase or for services or other charge shall be filled up at the time it is taken. Where payment is not made directly by the state treasurer, proof in some proper form shall be furnished on oath that the voucher was so filled up at the time it was taken, and that the money stated therein to have been paid, was in fact paid in cash or by check or draft on some specified bank.

Before any contract made for or by any state charitable institution, reformatory, house of refuge, industrial school, officer, department, board or commission, shall be executed or become effective, when such contract exceeds one thousand dollars in amount, it shall first be approved by the comptroller and filed in his office. Whenever any liability of any nature shall be incurred by or for any state charitable institution, reformatory, house of refuge, industrial school, officer, department, board or commission, notice that such liability has been incurred shall be immediately given in writing to the state comptroller. Whenever any supplies or materials are furnished to any state charitable institution, reformatory, house of refuge, industrial school, officer, department, board or commission, a duplicate of the invoice shall be delivered to the comptroller at the same time that it is delivered to the officer, department or institution receiving the supplies or materials.

This section, as amended, shall be deemed to supersede any other provision of this chapter or of any other general or special law inconsistent therewith.

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The foregoing section was derived from State Finance Law, L. 1897, ch. 413, § 16. It was amended by L. 1913, ch. 342, § 2. The amendment changed the section heading which formerly read "Forms of State accounts," and added the last two paragraphs.

Auditing and paying fraudulent claims upon the state: see PENAL LAW, § 1863.

Obtaining proceeds of fraudulent audit or payment: see PENAL LAW, § 1864.

Officials not to be interested in sales, leases or contracts: see PENAL LAW, § 1868.

Fraudulently presenting bills or claims to public officers for payment: see PENAL LAW, § 1872.

Exchange of products between state institutions.—The provision of the present section that all purchases for any department of the state government shall be for cash, prohibits exchange of products by state institutions. Op. Atty.-Gen. (1910) 812.

Purpose of provision as to approval of contracts in excess of $1,000.—The purpose of the provision of the present section requiring the comptroller to approve contracts over $1,000 was not only to prevent officers and agents of the state from creating a liability binding upon the state for the payment of which there is no available appropriation, but also to create a check upon the making of contracts apparently improvident or extravagant to a degree which will bring serious loss upon the state. Op. Atty.-Gen. (1915) 28.

Necessity of approved contract for work on public building in excess of $1,000.—Neither the principal of a normal school nor the department of education has authority to have work performed upon the school building in excess of $1,000 without a contract therefor approved by the comptroller and filed in his office. Op. Atty.-Gen. (1915) 332, 5 St. Dept. Rep. 488.

§ 17. Itemized and monthly accounts of public officers. The proper officer of each state hospital, asylum, charitable or reformatory institution, the state hospital commission, the state board of charities, the state board of health, the conservation commission and all other state commissions, commissioners and boards, shall, on or before the fifteenth day of each month, render to the comptroller a detailed and itemized account of all receipts and expenditures of such hospital, asylum, institution, commission, or board of commissioners, during the month next preceding. Such account shall give in detail the source of all receipts, including the sums received from any county, and to be accompanied by original and proper vouchers for all funds paid from the state treasury, unless such vouchers have been previously filed with the comptroller and have appended or annexed thereto the affidavit of the officer making the same to the effect that the goods and other articles therein specified were purchased and received by him or under his direction; or that the indebtedness was incurred under his direction; that the goods were purchased at a fair cash market price and that neither he, nor any person in his behalf, had any pecuniary or other interest in the articles purchased or in the indebtedness incurred; that he received no pecuniary or other benefit therefrom, nor [1]any promises thereof; that the articles contained in such bill were received by him, and that they conformed in all respects to the goods ordered by him or under his

[1] "any" new.

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direction, both in quality and quantity. The state comptroller, [1]the president of the state board of charities, [2]and the fiscal supervisor of state charities shall from time to time classify into grades the officers and employees of the various charitable and reformatory institutions required by law to report to the fiscal supervisor, and in the month of September of each year recommend to the governor such changes in the salaries or wages of such officers and employees for the ensuing fiscal year as may seem proper, but such changes shall not be made unless the governor shall approve the same in writing. Differences in the expense of living and rates of wages in [3]the localities in which such institutions are situate may be considered. The comptroller shall have the power of audit subject to such classification.

This section was derived from State Finance Law, L. 1897, ch. 413, § 17, as amended by L. 1903, ch. 239, § 1. It was amended by L. 1914, ch. 215. The amendments are shown in the footnotes. It was further amended by L. 1916, ch. 118, § 3. This amendment substituted "commission in lunacy," and "conservation commission" in place of "state commission in lunacy" and "commissioners of fisheries, game and forests" respectively.

Monthly statement of receipts and expenditures by treasurer of each state institution: see STATE CHARITIES LAW, § 46.

Prison officers not to be interested in prison contracts: see PENAL LAW, § 1828.

Officials not to be interested in sales, leases or contracts: see PENAL LAW, § 1868.

Misappropriation and falsification of accounts by public officers: see PENAL LAW, § 1865.

Auditing and paying fraudulent claims and obtaining proceeds of fraudulent audit or payment: see PENAL LAW, §§ 1863, 1864.

Fraudulently presenting bills or claims to public officers for payment: see PENAL LAW, § 1872.

Extent of power of salary classification commission.—The language of the present section authorizing the classification commission from time to time to "classify into grades" cannot be construed as authorizing them to fix the salaries or compensation attached to the respective officers; their powers in this respect are limited to recommending to the governor such changes in salary or wages as may seem proper. Op. Atty.-Gen. (1912) 299.

Power of commission to specify qualifications and to omit from classification.—It was ruled in Op. Atty.-Gen. (1901) 164, that the commission to classify into grades and fix the salaries of officers and employees of the various charitable and reformatory institutions of the state provided for in the present section had no power under the statute to specify the qualifications necessary for any person who was occupying a position in any of these institutions at the time the statute went into effect; nor was the commission empowered to omit from such classification any position which already existed in a state institution, subject to the classification, where such position had been legally filled by the board of managers prior to the classification.

Writ to compel classification of de facto official.—It was held in Lake v. Stoddard, (1908) 125 App. Div. 305, 109 N. Y. S. 523, that in view of the fact that the statutes governing the Rome State Custodial Asylum did not create the office of treasurer of that institution as a distinct office or position, mandamus would not lie to compel the classification commission to classify the person performing the duties of treasurer in a grade as the treasurer of the asylum.

1 "and" omitted.
2 "the fiscal supervisor of state charities" new.
3 "the" new.

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Salary for vacation period of employee resigning at end of period.—Where a regulation of the salary classification commission fixing the salary for a certain grade includes a provision for a two weeks' vacation in each year, an employee in the grade is entitled to salary for the two weeks even though he resigns his position at the end of that period. Op. Atty.-Gen. (1909) 702.

Cited.—This section was cited in Op. Atty.-Gen. (1915) 199, in connection with the construction of section 45 of the State Charities Law. See STATE CHARITIES LAW, § 45, note.

It was cited in Op. Atty.-Gen. (1910) 937, in connection with the construction of section 45 of the State Charities Law, relating to the maintenance of officers and employees of charitable institutions.

It was cited in Op. Atty.-Gen. (1912) 278, in connection with the construction of section 289 of the Prison Law relating to compensation of officers and employees in state reformatories.

It was cited in Op. Atty.-Gen. (1911) 353; Op. Atty.-Gen. (1900) 262, in connection with the construction of section 37. See infra, § 37 note.

§ 18. Inspection of supplies and entry in books. The steward, clerk or bookkeeper in every such institution, board or commission shall receive and examine all articles purchased or received for the maintenance thereof, compare them with the bills for the same, ascertain whether they correspond in weight, quality or quantity, and inspect the supplies thus received. Such steward, clerk or bookkeeper shall enter each bill of goods thus received in the books of the institution or department at the time of receipt thereof. He shall make a full memorandum in the book of accounts of such institution of any difference in weight, quality or quantity of any article received from the bill thereof, and no goods or other articles of purchase or manufacture or farm or garden production of land of the institution shall be received unless so entered in such book with the proper bill, invoice or statement, according to the form of accounts and record prescribed by the comptroller. In accounts for repairs or new work, the name of each workman, the number of days employed and the rate and amount of wages paid to him shall be given. If contracts are made for repairs or new work, or for supplies, a duplicate thereof, with specifications, shall be filed with the comptroller. The steward of every such institution or other officer performing the duties of a steward under whatever name, shall take, subscribe and file with the comptroller, before entering on his duties, the constitutional oath of office, and may administer oaths and take affidavits concerning the business of such institution.

This section was derived from State Finance Law, L. 1897, ch. 413, § 18.
Affidavit of steward and vouchers: see STATE CHARITIES LAW, § 47.
Purchases for use of state institutions: see STATE CHARITIES LAW, § 48.
Official oaths generally: see PUBLIC OFFICERS LAW, § 10.
Form of constitutional oath: see CONSTITUTION, Art. XIII, § 1.
Acting in public office without having qualified: see PENAL LAW, § 1820.

§ 19. Deposit in banks of moneys received by state institutions. Every state institution supported, in whole or in part, by the state, shall deposit at interest, all its funds[1] in a bank or trust

[1] "received from sources other than the state," omitted.

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company, which shall give a bond with sufficient sureties for the security of such deposit, to be approved by the comptroller and filed in his office, or may in lieu of such surety bond deposit with the comptroller outstanding unmatured bonds issued by the state of New York for which the comptroller shall deliver a certificate of deposit containing the conditions of said surety bond. On the withdrawal of all moneys from any such depository and a closing and settlement of the account thereof, the comptroller may in his discretion certify to such settlement and direct the surrender of such surety bond or deposit to the obligors or owner entitled thereto.

This section was derived from State Finance Law, L. 1897, ch. 413, § 19, as amended by L. 1901, ch. 457, § 1. It was amended by L. 1910, ch. 77, which added to the section all the matter following the word "comptroller" near the beginning of the section, and which new matter begins with "and filed in his office, . . ." It was further amended by L. 1911, ch. 293. This amendment is shown in the footnote.

Depository of funds of charitable or benevolent institutions: see STATE CHARITIES LAW, § 458.

Deposit of funds pending investment.—It has been ruled that where a sum of money has been bequeathed to the board of managers of a state hospital, as trustees for the institution, with directions that the fund be kept invested, the fund should be deposited in a bank designated by the comptroller pending its investment. Op. Atty.-Gen. (1912) 477.

Cited.—This section was cited in Op. Atty.-Gen. (1900) 262, in connection with the construction of section 37. See infra, § 37, note.

§ 20. Annual inventory and report of institutions. Every state charitable institution, state hospital, reformatory, house of refuge and industrial school shall file with the comptroller annually, on or before [1]July twentieth, a certified inventory of all articles of maintenance on hand at the close of the preceding fiscal year, stating the kind and amount of each article. Every state charitable institution, state hospital, reformatory, house of refuge, state agricultural experiment station, [2]and the health officer of the port of New York during the continuance of such office, required by law to report annually to the legislature, shall state an inventory of each article of property, stating its kind and amount, except supplies for maintenance, belonging to the state and in their possession on [1]July first of each year.

This section was derived from State Finance Law, L. 1897, ch. 413, § 20. It was amended by L. 1916, ch. 118, § 4. The amendments are shown in the footnotes.

Fiscal year: see supra, § 2.

Fiscal year of state institutions: see STATE CHARITIES LAW, § 44.

[1] Formerly "October."

[2] "and the health officer . . . continuance of such office" new; "quarantine commissioners" omitted.

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§ 21. Rendition of accounts. The comptroller, from time to time, shall require all public officers and other persons receiving moneys or securities, or having the care and management of any property of the state, of which an account is or is required to be kept in his office, to render statements thereof to him; and all such officers or persons shall render such statements at such time and in such form as he requires, and at all times when required by law. He may require any one presenting to him an account or claim for audit or settlement, to be examined upon oath before him touching such account or claim, as to any facts relating to its justness or correctness. He may issue a notice to any person receiving moneys of the state for which he does not account or to the legal representatives of such a person, requiring an account and vouchers for the expenditure of such moneys to be rendered at a time to be fixed not less than thirty nor more than ninety days from the date of the service of the notice. Such notice shall be served by delivering a copy thereof to such person or representative or leaving such copy at his usual place of abode; and if such service is made by the sheriff of the county, where the person served resided, the certificate of such sheriff, and if made by any other person, the affidavit of such other person, shall be presumptive evidence of such service.

This section was derived from State Finance Law, L. 1897, ch. 413, § 21.

Obtaining proceeds of fraudulent audit or payment: see PENAL LAW, § 1864.

Officials not to be interested in sales, leases or contracts: see PENAL LAW, § 1868.

Fraudulently presenting bills or claims to public officers for payment: see PENAL LAW, § 1872.

Falsification of accounts by public officers: see PENAL LAW, § 1865.

Cited.—This section was cited in People v. Travis, (1916) 175 App. Div. 721, 161 N. Y. S. 860, reversing 96 Misc. 490, 160 N. Y. S. 737, in connection with the question of mandamus against the comptroller requiring him to audit the expenditures of the exposition commissioner appointed under the act of 1915 (L. 1915, ch. 541).

It was cited in Op. Atty.-Gen. (1903) 453, in connection with the question of payment of clerks of superintendents of state hospitals for extra services. See INSANITY LAW, § 52, note.

It was cited in Op. Atty.-Gen. (1900) 262, in connection with the construction of section 37. See infra, § 37, note.

§ 22. Statements of accounts not rendered. The comptroller shall state an account against every person who receives moneys belonging to the state for which he does not account when required, charging him with the amount received according to the best information which the comptroller may have in regard thereto, with interest at six per centum per annum from the time when the same was due and payable, and shall deliver a certified copy of such account to the attorney-general for prosecution, and such certified copy shall be presumptive evidence of the indebtedness of such person to the state for the amount stated therein.

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The person against who man action is brought by the attorney-general on any such account, shall be liable for and pay the costs of the action whether final judgment therein shall be against him or in his favor, unless he is sued as the representative of the person originally accountable for such moneys.

This section was derived from State Finance Law, L. 1897, ch. 413, § 22.

Cited.—This section was cited in People v. Travis, (1916) 96 Misc. 490, 160 N. Y. S. 737, reversed 175 App. Div. 721, 161 N. Y. S. 860, in connection with the question of mandamus against the comptroller requiring him to audit the expenditures of the exposition commission appointed under the act of 1915 (L. 1915, ch. 541).

§ 23. Statements of accounts rendered. The comptroller shall immediately examine the accounts rendered by every public officer or other person receiving moneys belonging to the state, with the vouchers, and audit, adjust and make a statement thereof. If any necessary vouchers are wanting or defective, he shall give notice to such person to furnish proper vouchers within not less than thirty nor more than ninety days, and at the expiration of such time he shall audit, adjust and make a statement of such accounts on the vouchers and proofs before him. He shall transmit a copy of every account as settled to such persons, and if any balance is stated therein to be due the state, and is not paid to the treasurer within ninety days after its transmission to such person, the comptroller shall deliver a certified copy of such account to the attorney-general for prosecution. Such certified copy shall be presumptive evidence of the indebtedness of such person to the state for the balance so certified, and if on the trial of any action brought thereon, the defendant gives any evidence other than such as was produced to the comptroller before the statement of such accounts, and by means thereof, the balance so stated is reduced or no balance is found to be due, the defendant shall be liable for and pay the costs of such action.

This section was derived from State Finance Law, L. 1897, ch. 413, § 23.

Falsification of accounts by public officers: see PENAL LAW, § 1865.

Obtaining proceeds of fraudulent audit or payment and fraudulently presenting claims for payment: see PENAL LAW, §§ 1864, 1872.

Cited.—This section was cited in People v. Travis, (1916) 175 App. Div. 721, 161 N. Y. S. 860, reversing 96 Misc. 490, 160 N. Y. S. 737, in connection with the question of mandamus against the state comptroller requiring him to audit the expenditures of the exposition commission appointed under the act of 1915 (L. 1915, ch. 541).

It was cited in Op. Atty.-Gen. (1911) 58, in connection with the question of the right of health officers to receive a check from a telegraph company, for rent of certain property.

It was cited in Op. Atty.-Gen. (1903) 453, in connection with the question of the right of superintendents of state hospitals to pay extra compensation to clerks employed in the institutions for services in assisting them in the performance of their duties as treasurers. See INSANITY LAW, § 52, note.

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§ 24. Statement of joint accounts. The comptroller may, in his discretion, settle separately the accounts of one or more persons receiving moneys of the state for which they are accountable to the state. In such case no person shall plead as a defense to an action brought for a balance certified to be due from him, the non-joinder of any other person, or give in evidence upon the trial thereof the fact that any other person was concerned with him in the receipt or expenditure of such moneys.

This section was derived from State Finance Law, L. 1897, ch. 413, § 24.

§ 25. Other remedies preserved. This article does not preclude the state from the enforcement of any other remedy, for the recovery of any debt due or to become due to the state.

This section was derived from State Finance Law, L. 1897, ch. 413, § 25.

§ 26. Foreclosure of mortgage by the state. The comptroller shall cause all mortgages belonging to the state upon which default is made in the payment of principal or interest, to be foreclosed, whenever, in his judgment, it may be necessary for the protection of the interest of the state. All actions or proceedings for that purpose shall be prosecuted or conducted by the attorney-general.

This section was derived from State Finance Law, L. 1897, ch. 413, § 26.
Foreclosure generally: see Code Civ. Pro., § 1626 et seq.

§ 27. When comptroller shall bid in premises. If on a sale on any such foreclosure, there is not bid and paid or received the amount unpaid on the mortgage, for principal and interest and the costs and expenses of the foreclosure, the comptroller may cause the sale to be postponed and have the value of the premises appraised by two competent and disinterested persons selected by him. If the premises are appraised at a sum equal to or exceeding the amount unpaid to the state, including the costs of the foreclosure and expenses of the appraisal, the comptroller on the sale thereof, shall bid for the state such amount, if necessary to prevent a sale of the premises at a less sum. If the premises are appraised at a sum less than such amount, the comptroller may bid the amount of the appraisement and no more. If the premises are struck off for a sum less than such amount, no greater sum shall be credited to the mortgagor or any other person, on account of such sale than the sum bid for the premises sold, deducting therefrom all costs and expenses of the sale and appraisal. The appraisers shall receive a reasonable compensation for their services, to be allowed by the comptroller and paid out of the treasury.

This section was derived from State Finance Law, L. 1897, ch. 413, § 27.

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§ 28. Conditions of sale. At a sale under such foreclosure the comptroller shall require the purchaser to pay, at the time of the sale, the costs and expenses thereof, and at least one-fourth of the amount so unpaid; and for securing the remainder of the moneys due the state, on the execution of a deed or of the affidavits of sale to the purchaser, he may accept from the purchaser a bond and mortgage to the state on the premises sold, payable in six equal annual instalments, with annual interest at six per centum. If the mortgaged premises sell for a greater sum than the amount so unpaid and the costs and expenses of the sale, the comptroller shall also require the purchaser at the time of the sale to make payment of such surplus. The expense incurred by the attorney-general in any action or proceeding for the foreclosure of any such mortgage, shall be paid to him out of the treasury.

This section was derived from State Finance Law, L. 1897, ch. 413, § 28.
Disposition of surplus on foreclosure: see Code Civ. Pro., § 1633.

§ 29. Sale in parcels. On any such foreclosure, if any person having title to a part of the mortgaged premises, by conveyance from or through the mortgagor, delivers to the comptroller an affidavit stating that he has such title, and describing with certainty such part, the comptroller on the sale under such foreclosure shall cause to be first sold that part of the mortgaged premises not specified in the affidavit. If the part so sold does not produce enough to satisfy the amount so unpaid and costs and expenses he shall immediately cause such part or parts of the premises as have been conveyed by the mortgagor and described in any such affidavit, to be sold, and if more than one part of such premises has been so conveyed, and an affidavit made as herein required, the comptroller shall cause such parts to be sold in the inverse order of the dates of such conveyances, if it is necessary to sell them, commencing with the part last conveyed by the mortgagor, and such sale shall cease when the proceeds of the sale are sufficient to satisfy the amount so unpaid and such costs and expenses.

This section was derived from State Finance Law, L. 1897, ch. 413, § 29.
When part only of the property to be sold and when whole property may be sold: see Code Civ. Pro., §§ 1636, 1637.
Effect of conveyance on sale: see Code Civ. Pro., § 1632.
Cited.—The statute embodying the present section was cited in Ex parte Merrian, (1847) 4 Denio 254.

§ 30. Separate accounts for lands purchased or mortgaged. The comptroller on application to him for that purpose, shall open an account in his office against any person, for a part or subdivision of a lot of land purchased from or mortgaged to the state, for the proportionate part of the moneys on any such part or subdivision, and thereafter give credit on the several parts or subdi-

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visions, as the persons making payments may require. He may credit any prior payment to a part or subdivision, if such payment appears by satisfactory proof to have been originally intended to be paid on such part or subdivision or by or for the use of the person claiming the credit, whether so expressed in the receipts or not. No part of any such payments shall be applied to the reduction of the principal unpaid on any such part or subdivision, unless the payments exceed the interest, calculated on the principal due on such part, or subdivision, to the day when such part or subdivision is to be paid off, or a new account opened therefor. If separate receipts be given by the treasurer, for any payments which are claimed to be credited to the account of any such part or subdivision, the receipts shall be delivered to the comptroller and filed in his office. Separate accounts shall not be opened under this section unless a map and survey of the whole lot is filed with the comptroller, showing particularly the part or subdivision for which such account is to be opened, and satisfactory proof furnished the comptroller that the residue of the lot is sufficient security for the sum remaining unpaid thereon.

This section was derived from State Finance Law, L. 1897, ch. 413, § 30.

§ 31. Discharge of mortgages by the state. The treasurer's receipt, countersigned by the comptroller, setting forth that the whole sum secured by the mortgage held by the state has been paid, shall be a sufficient discharge of the mortgage, and the officer in whose office such mortgage is recorded shall record such receipt as a satisfaction of the mortgage and satisfy the mortgage of record. When any part or subdivision of any lot mortgaged to or purchased from the state, for which a separate account has been opened, is paid, the comptroller shall execute a discharge of such part or subdivision from such mortgage.

If a map and survey of the whole lot is filed with the comptroller showing particularly a part or subdivision for which no separate account has been opened, and the owner thereof pays into the treasury its full proportion of principal and interest unpaid, and satisfactory proof is furnished the comptroller that the residue of the lot is sufficient security for the sum remaining unpaid, he may execute a like discharge of such part or subdivision.

This section was derived from State Finance Law, L. 1897, ch. 413, § 31.

§ 32. Surplus moneys on sale of lands mortgaged to the state. If real property mortgaged to the state, or purchased for the benefit of the state, or for which a certificate has been given to a former purchaser, is sold by the comptroller, state engineer or the commissioners of the land office for a greater sum than the amount due to the state, with the costs and expenses of the fore-

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closure or resale, the surplus moneys received into the treasury after a conveyance has been executed to the purchaser, shall be paid to the person legally entitled to such real property at the time of the foreclosure or of the forfeiture of the original contract. On a sale of such real property by the comptroller, the state engineer or the commissioners of the land office, the comptroller shall give credit to the mortgagor on his bond or to the original purchaser on his contract, for the amount at which such property has been sold, after deducting therefrom all the costs, charges and expenses of the sale. If interfering claims to such surplus moneys be made, they shall be referred by the comptroller to the attorney-general, whose decision as to the rights of the respective claimants shall be final and conclusive as to any claim against the state. The comptroller shall not draw his warrant for any moneys authorized by this section to be refunded, except on satisfactory proof, by affidavit or otherwise, of the legal right of the person in whose favor such warrant is applied for.

This section was derived from State Finance Law, L. 1897, ch. 413, § 32. *Disposition of surplus on foreclosure sale:* see Code Civ. Pro., § 1633.

§ 33. Assignments of mortgages; releases from judgments. The comptroller, on the written request of the owner in actual possession of real property mortgaged to the state, may assign such mortgage, with the bond or other instrument accompanying the same, on payment into the treasury of the amount of principal and interest unpaid on such mortgage. The comptroller, with the consent of the attorney-general, if satisfied that the interests of the state will not be prejudiced thereby, may release any portion of any real property subject to a judgment in favor of the people of the state from the lien created by such judgment.

This section was derived from State Finance Law, L. 1897, ch. 413, § 33.

§ 34. Compromise of old judgments and debts. The attorney-general and comptroller, or either of them, may acknowledge satisfaction of judgment in favor of the people of the state when the same is settled or discharged. The comptroller, with the approval of the attorney-general, may compromise, settle, release and discharge any judgment or contract debt not in judgment in favor of the state, after the lapse of ten years since the recovery of the judgment, or since the debt became due, on such terms as the comptroller and attorney-general deem for the best interest of the state.

This section was derived from State Finance Law, L. 1897, ch. 413, § 34.

§ 35. Indebtedness not to be contracted without appropriation. A state officer, employee, board, department or commission shall

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not contract indebtedness on behalf of the state, nor assume to bind the state, in an amount in excess of money appropriated or otherwise lawfully available.

This section was derived from State Finance Law, L. 1897 ch. 413, § 35, as added by L. 1899, ch. 580, § 1.

Power to contract state debts and application of moneys: see CONSTITUTION, Art. VII, § 2.

Limitation of legislative power to create debts: see CONSTITUTION, Art. VII, § 4.

Appropriation bills: see CONSTITUTION, Art. III, § 21.

What constitutes appropriation in constitutional sense: see Ann. Cas. 1915A 1240 note.

Requisites of appropriations: see 46 L. R. A. (N. S.) 206 note.

Necessity and sufficiency of reference in title of statute to appropriations in order to put its purpose into effect: see Ann. Cas. 1917B 812 note.

Section as affecting power of attorney-general to employ counsel.—It has been held that the power of the attorney-general, under section 65 of the Executive Law, to employ counsel necessary to assist in the transaction of legal business, is not limited by the provisions of the present section. Kirby v. State, (1910) 68 Misc. 626, 125 N. Y. S. 742.

Ratification by state.—While the state by the present section has placed limits upon the authority of its officers to contract and incur indebtedness on its behalf it may nevertheless ratify any of their acts whenever these acts are not void under the constitution. Carroll v. State, (1910) 68 Misc. 41, 124 N. Y. S. 888.

In this connection see Op. Atty.-Gen. (1910) 743; Op. Atty.-Gen. (1906) 264; Op. Atty.-Gen. (1900) 183.

Use of whole of appropriation for part of work.—Under the statute state work must be completed within the appropriation made therefor, and the authorities are not authorized to use the whole appropriation to do only a part of it. Op. Atty.-Gen. (1908) 477.

Contract for building previous to appropriation becoming available.—It was ruled in Op. Atty.-Gen. (1912) 544, that contracts might be let for the erection of buildings at the state school of agriculture previous to the time the appropriation therefor was available; but that the contract should stipulate that no liability for payment should be assumed until the appropriation took effect.

Power of state fair commission in contracting for new building.—It was ruled in Op. Atty.-Gen. (1913) 461, that the state fair commission had the power to execute a contract with firms making the lowest bids for the construction and equipment of a new building on the fair grounds although the bids with the addition of the architect's fees, which were payable out of the sum appropriated, exceeded the appropriation, provided that the architect waived his right to the payment of his fees unless an appropriation therefor was subsequently made by the legislature; and, similarly, that the commission could authorize the construction of additional items which were not included in the bids, although the cost thereof made the total cost of construction and equipment exceed the appropriation, if the contractor agreed to waive his compensation therefor unless an appropriation to pay the same was subsequently made by the legislature.

Power of new prisons commission to issue bonds.—It was ruled by the attorney-general in 10 St. Dept. Rep. 495, that the new prisons commission had no authority to issue state bonds for the purpose of meeting the expenses incident to the construction of the prisons in excess of the amounts appropriated therefor.

Proceedings for abolition of toll bridges in absence of appropriation.—It was ruled in Op. Atty.-Gen. (1911) 52, that proceedings for the abolition of toll bridges as prescribed by statute (L. 1909, ch. 146, as amended by L. 1910, ch. 569) should not be entered upon until funds were lawfully available therefor.

Appointment of caretakers for public lands in absence of appropriation.—It was held in Op. Atty.-Gen. (1910) 975, that while the present section

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would forbid any agreement by the commissioners of the land office for compensation for the services of a caretaker for certain public lands until an appropriation had been made therefor, the commissioners had the power to appoint as caretakers such persons as agreed to render their services gratuitously.

See PUBLIC LANDS LAW, § 3.

Right of highway commission to complete roads.—It was ruled in Op. Atty.-Gen. (1909) 676, that the state highway commission might readvertise and complete roads and claim excess cost from contractors, even though the cost of completion exceeded the amount appropriated for the original contracts.

See HIGHWAY LAW, § 132.

Effect of omission of appropriation for salary of locomotive boiler inspector.—It was held in Op. Atty.-Gen. (1905) 487, that although the act of 1905 (L. 1905, ch. 511) provided for the appointment of an inspector of locomotive boilers, who should receive a compensation to be fixed by the railroad commission, not exceeding a certain sum, no appropriation for the salary of the inspector having been made, the commission had no power to fix any compensation until further legislation supplied the omitted appropriation.

Power of railroad commission under section 62 of the Railroad Law.—It was ruled in Op. Atty.-Gen. (1904) 248, that the railroad commissions had power to determine the necessity of a change in crossing under section 62 of the Railroad Law, even though the money to pay for the state's portion was not available at the time of the determination.

See RAILROAD LAW, § 91.

Furnishing of "challenge affidavits" by secretary of state.—It has been ruled that the present section does not prohibit the secretary of state from furnishing challenge affidavits under section 167 of the Election Law (former section 34) notwithstanding there is no appropriation for defraying the expenses. Op. Atty.-Gen. (1899) 278.

Cited.—This section was cited in People v. Williams, (1910) 140 App. Div. 723, 125 N. Y. S. 583, affirmed (1911) 203 N. Y. 550 mem. in connection with the question of mandamus to compel reinstatement of a veteran to position in the department of the state engineer, who has been discharged because the funds available for the payment of his salary have been exhausted; in Op. Atty.-Gen. (1913) 553, in connection with the construction of section 38; see infra, § 38, note; Op. Atty.-Gen. (1912) 138; and in Op. Atty.-Gen. (1915) 28, in connection with the construction of section 16; see supra, § 16, note.

It was cited in Op. Atty.-Gen. (1910) 604, in connection with the construction of section 49 of the State Charities Law, relating to contracts for the erection or improvement of buildings of state institutions reporting to the fiscal supervisor.

This section was cited in Op. Atty.-Gen. (1915) 20, 2 St. Dep. Rep. 589, in connection with the construction of section 65 of the Insanity Law, relating to repairs and improvements of state hospital buildings. See INSANITY LAW, § 65, note.

It was cited in Op. Atty.-Gen. (1914) 84, in connection with the construction of section 126 of the Canal Law, relating to canal bridges. See CANAL LAW, § 126, note.

It was also cited in Op. Atty.-Gen. (1911) 18, in connection with the construction of section 25 of the Executive Law, relating to the publication of the legislative manual. See EXECUTIVE LAW, § 25, note.

§ 36. Specific appropriation not to be used for other purposes; items for certain purposes required to be specific. Money appropriated for a specific purpose shall not be used for any other purpose; and the comptroller shall not draw a warrant for the payment of any sum appropriated, unless it clearly appears from the detailed statement presented to him by the person demanding the same as required by this chapter, that the purposes for which such money is demanded are those for which it was appropriated. The

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comptroller shall not audit any claim for salary, labor or wages, unless an appropriation applicable thereto has been already made specifying the amount thereof appropriated for such purpose.

The comptroller shall not audit any claim or account or draw a warrant for the payment of moneys for the purchase of an automobile [1]adapted and intended primarily for the carrying of passengers, or the rent thereof, for such purpose, for a period longer than ten days, unless moneys are specifically appropriated therefor; and an appropriation for expenses for any officer, board or commission or for any department under the state government, or in connection with the prosecution of any object or purpose, which does not in express terms include the purchase of an automobile or automobiles shall not be held to authorize the comptroller to audit any such claim or account or draw a warrant for the payment thereof.

This section was derived from State Finance Law, L. 1897, ch. 413, § 36, as added by L. 1889, ch. 580, § 1. It was amended by L. 1915, ch. 669, which added "items for certain purposes required to be specific" to the heading, and also added the second paragraph to the section, except that part specified in the footnote. It was further amended by L. 1916, ch. 392. This amendment is shown in the footnote.

Limitation on power to contract state debts and application of moneys arising from loans: see CONSTITUTION, Art. VII, § 2.

Appropriation bills: see CONSTITUTION, Art. III, § 21.

Appropriation bills not to embrace other subjects: see CONSTITUTION, Art. III, § 22.

Right to use funds for purposes other than those for which appropriation was made; see Ann. Cas. 1917B 864 note.

Application of highway funds.—Funds appropriated for the construction of roads along specific routes cannot be used for other roads, even though replaced by other funds from a general appropriation. Op. Atty.-Gen. (1913) 152.

See in this connection Op. Atty.-Gen. (1913) 54, see HIGHWAY LAW, article 6.

Library supplies appropriation as applicable to insurance upon libraries.—Money appropriated by the legislature for "books, binding and supplies" for the supreme court law libraries cannot be used for insurance upon these libraries. Op. Atty.-Gen. (1915) 127.

Use of barge canal funds for construction of towpaths.—It was ruled in Op. Atty.-Gen. (1914) 67, that the present section prohibited the use of the barge canal funds either for the construction of towpaths or supplying towage facilities in lieu thereof.

Exhaustion of specific appropriations.—It was ruled in Op. Att.-Gen. (1912) 551, that a specific appropriation having been made to cover the traveling expenses of the assistant superintendent of public works they should not on the exhaustion of this fund be paid out of the funds provided pursuant to the provisions of the barge canal law.

Payment by treasurer from office expense fund for surety bonds of employees.—The state treasurer is not authorized to pay from office expenses of his department, for surety bonds required from his office assistants. Op. Atty.-Gen. (1911) 7.

In this connection see Op. Atty.-Gen. (1911) 394.

Funds for Perry memorial.—It was ruled in Op. Atty.-Gen. (1913) 368, that funds appropriated for the use of the Perry's Victory Centennial Commission might be used by the commission for the purpose of erecting a permanent memorial to Perry.

[1] "adapted and intended . . . longer than ten days" new.

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Renting of automobiles.—It was ruled by the attorney-general in Op. Atty.-Gen. (1916) 356, construing the amendment of 1916 of the present section (L. 1916, ch. 392), that automobiles might be rented any number of times by any particular department, officer, board or commission when the same were required for their official work, not exceeding, however, more than ten days at any one time.

Cited.—This section was cited in Op. Atty.-Gen. (1908) 477; Op. Atty.-Gen. (1905) 487, in connection with the construction of section 35. See supra, § 35, note.

It was cited in Op. Atty.-Gen. (1913) 70, in connection with the construction of section 65 of the Insanity Law, and section 49 of the State Charities Law, relating to appropriations for buildings at state institutions.

Also in Op. Atty.-Gen. (1915) 113, in connection with the question of application of state moneys upon merger of town into village.

It was cited in Op. Atty.-Gen. (1911) 73, in connection with the construction of section 21 of article 3 of the state constitution, which forbids the payment of money out of the state treasury except in pursuance of an appropriation.

Also in Op. Atty.-Gen. (1912) 370, in connection with the question of the discretion of the comptroller in refusing to allow claims of employees of the health officer of the port of New York for uniforms out of the general appropriation for that department.

§ 37. Payments to state treasurer. After this section as amended takes effect every state officer, employee, board, department or commission receiving money for or in behalf of the state from fees, penalties, costs, fines, sales of property or otherwise, shall on the fifth day of each month pay to the state treasurer all such money received during the preceding month and on the same day file a detailed, verified statement of such receipts with the comptroller, who shall keep an account thereof in his office. This section shall not apply to the manufacturing fund of the state prisons known as the capital fund, nor to the receipts of the manufacturing departments of the state hospitals for the insane, nor to the convict deposit and miscellaneous earning fund of the state prisons, nor to the working capital fund of the state commission for the blind, nor to moneys received by such commission by gift or bequest, nor to the capital fund of the state reservation at Saratoga Springs. This section, as amended, shall be deemed to supersede any other provision of this chapter or of any other general or special law inconsistent therewith.

This section was derived from State Finance Law, L. 1897, ch. 413, § 37, as added by L. 1899, ch. 580, § 1, and amended by L. 1901, ch. 457, § 2, and L. 1907, ch. 561, § 1. It was amended by L. 1910, ch. 440, by which the health officer of the port of New York was excepted from the officers required to pay over funds received by them. It was also amended by L. 1912, ch. 162 by which the words "nor to the receipts of the manufacturing departments of the state hospitals for the insane" were added to the exceptions named in the second sentence. It was further amended by L. 1915, ch. 216, by which the words "After this section as amended takes effect," at the beginning of the section were added; and the words "as amended" following the words "This section" in the last sentence were added. It was further amended by L. 1916, ch. 223 which added "Nor to the working capital fund of the state commission for the blind" to the exceptions in the second sentence. It was again amended by L. 1917, ch. 468 by which was added, following the words added by the 1916 amendment, the words "nor to moneys received by

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such commission by gift or bequest, nor to the capital fund of the state reservation at Saratoga Springs."

Barter or exchange of products.—This section contemplates that the business of all state institutions shall be conducted on a cash basis. Barter or exchange of products, therefore, is not permitted. Op. Atty.-Gen. (1915) 111; Op. Atty.-Gen. (1910) 812; Op. Atty.-Gen. (1899) 273.

Section as authorizing sale of state property.—The present section merely directs the disposition of funds received from sales of state property after such sales have been otherwise legally authorized; it does not authorize a state official to sell state property when in his judgment such sale would be advisable. Op. Atty.-Gen. (1911) 148; Op. Atty.-Gen. (1910) 958.

Statute as retroactive.—It was ruled in Op. Atty.-Gen. (1899) 284, that the present statute was not retroactive, and that moneys received by the former fisheries game and forest commission from fines and penalties prior to the taking effect of the statute might be applied to the payment of expenses of actions brought by the commission as provided by law.

Refund by secretary of state of excess fees after payment to treasurer.—It has been ruled that where moneys received for fees by the secretary of state in excess of the legal fees have been turned over to the state treasurer the secretary of state may not make a refund thereof. Op. Atty.-Gen. (1911) 101.

Section as applicable to state fair commission.—It has been ruled that the present section is not applicable to the state fair commission. Op. Atty.-Gen. (1910) 401.

"Employee" as including contractor.—The word "employee" in the present section does not mean a contractor contracting for state work. Op. Atty.-Gen. (1910) 610.

Section as affecting L. 1913, ch. 415, § 10.—It was ruled in Op. Atty.-Gen. (1915) 396, 5 St. Dept. Rep. 543, that the provisions of section 10 of chapter 415 of the Laws of 1913, which empowered the state commission for the blind to use the moneys received from the sale of the products of its workshops for the purpose of carrying on its industries, were inconsistent with the provisions of the present section of the State Finance Law, and therefore that the commission was required to pay any moneys received from the sale of any products made at its shops into the state treasury, and might not use them for carrying on its industries.

Use of funds by state hospitals derived from manufacturing.—The state hospital commission may use funds derived from manufacturing carried on in the state hospitals for the maintenance of the manufacturing departments. Op. Atty.-Gen. (1912) 261.

Moneys received by state hospitals.—It was ruled in Op. Atty.-Gen. (1911) 483, that moneys received by a state hospital for tubercular cows killed by the department of agriculture must be paid into the state treasury and could not be devoted by the hospital to the purchase of new milch cows.

Payment of moneys received under section 921 Code Criminal Procedure.—It was ruled in Op. Atty.-Gen. (1906) 597, explaining Op. Atty.-Gen. (1900) 262, that it was the duty of the house of refuge at Randall's Island to pay to the state treasurer all funds received by it from parents of children in accordance with the provisions of section 921 of the Code of Criminal Procedure.

Use of fees by health officers in emergency.—The authority of the health officers of the port of New York, under section 103 of the Public Health Law, to expend with the approval of the governor in case of an emergency such portion of the fees collected by him in his hands as are necessary, is not inconsistent with the command of the present section of the State Finance Law that he turn over to the state treasurer on the fifth day of each month the fees collected by him. Op. Atty.-Gen. (1915) 410, 5 St. Dept. Rep. 545.

Disposition of military funds.—The attorney-general in 6 St. Dept. Rep. 473, Op. Atty.-Gen. (1916) 120, distinguishing a contrary ruling by his predecessor in Op. Atty.-Gen. (1910) 599, ruled that all funds obtained from the sale of military and naval property found to be unsuitable for use, fines and penalties collected from delinquent officers, unexpended balances to the credit of disbanding organizations and all accrued interest on the military funds should be deposited in the state treasury notwithstanding the fact

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that the Military Law (sections 16, 142, 225, 226) contemplated other disposition of these funds.

Donations and pension funds.—Moneys deposited with the board of managers of the woman's relief corps home by inmates from pension funds and donations made for the entertainment of the inmates need not be turned into the state treasury. Op. Atty.-Gen. (1911) 353.

See in this connection Op. Atty.-Gen. (1905) 391.

Deposit of moneys by Matteawan State Hospital.—It was ruled in Op. Atty.-Gen. (1901) 191, that Matteawan State Hospital need not deposit monthly with the state treasurer moneys received by it from sources other than the state.

Moneys received by institute for feeble-minded.—In Op. Atty.-Gen. (1899) 303, it was held that moneys received by the state institution for feeble-minded children from counties for the support of state pupils should be paid over to the state treasurer monthly.

Moneys received by Craig Colony.—It was ruled in Op. Atty.-Gen. (1899) 311, that it was the duty of the treasurer of Craig Colony to turn into the state treasury moneys received from the sale of manufactured products, live stock and produce.

Moneys received by agricultural department of Cornell University.—In Op. Atty.-Gen. (1899) 327, it was held that moneys received by the college of agriculture of Cornell University (a department maintained by an annual state appropriation), as tuition of foreign pupils, was not required to be paid over to the state treasurer.

Cited.—This section was cited in Op. Atty.-Gen. (1911) 584, in connection with the question of the authority of the state historian to sell the publications prepared and issued by him. See EXECUTIVE LAW, § 90, note.

And in Op. Atty.-Gen. (1909) 403, in connection with the construction of article 7, section 8 of the state constitution, relating to sale of canals, and section 15 of the Canal Law (former section 10) relating to the general powers of the canal board.

§ 38. Contracts in pursuance of appropriations. A contract or contracts made in pursuance of an appropriation by the state for a specific object shall be for the completion of the work contemplated by the appropriation, and in the aggregate shall not exceed the amount of such appropriation. A contract for a part of such work shall not be binding upon the state until contracts are also made covering the entire work contemplated by such appropriation, except where it is expressly provided by such appropriation that a part of the work may be done by day's labor. Every such contract shall be accompanied by a bond for the completion of the work, specified in the contract, within the amount stipulated therein, which bond shall be filed in the office of the state comptroller.

This section was derived from State Finance Law, L. 1897, ch. 413, § 38, as added by L. 1899, ch. 479, § 1.

Extra compensation to contractors prohibited: see CONSTITUTION, Art. III, § 28.

Cancellation of canal contracts: see CONSTITUTION, Art. VII, § 9.

Use of whole appropriation for part of work.—The statute requires state work to be completed within the appropriation made therefor, and the authorities are not authorized to use the whole appropriation to do only a part of the work either by contract or by employing day laborers. Op. Atty.-Gen. (1913) 553; Op. Atty.-Gen. (1912) 138; Op. Atty.-Gen. (1911) 193; Op. Atty.-Gen. (1908) 477.

Barge canal contracts.—Barge canal contracts are by statute expressly

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exempted from the application of the present section. See Op. Atty.-Gen. (1913) 122; Op. Atty.-Gen. (1906) 264.

Cited.—This section was cited in Op. Atty.-Gen. (1913) 70, in connection with the construction of section 65 of the Insanity Law, and section 49 of the State Charities Law, relating to the use of unexpended balances of appropriations.

It was cited in Op. Atty.-Gen. (1912) 264, in connection with the construction of section 121 of the Highway Law. See Highway Law, § 121, note.

§ 39. Acceptance of trusts by comptroller. The state comptroller may accept and hold in behalf of the state, if for the public interest, a gift, devise or bequest to the state of New York, heretofore or hereafter made in trust, for the support of the common and union free schools of the state or of any school district or municipality therein. He shall cause such gift, devise or bequest to be kept as a distinct fund, and shall invest the same in the stocks and bonds of the United States or of this state, for the payment of which the faith and credit of the United States or of this state are pledged, or in the stocks or bonds of any county, town, city, village or school district of the state authorized by law to be issued. The comptroller shall annually pay the income thereof to the commissioner of education, who shall cause such income to be distributed in accordance with the terms of such gift, devise or bequest.

This section was derived from State Finance Law, L. 1897, ch. 413, § 39, as added by L. 1902, ch. 59, § 2.

Trusts for schools: see EDUCATION LAW, § 520 et seq.

Certain gifts for charitable and educational uses regulated: see PERSONAL PROPERTY LAW, § 14.

Grants for charitable uses regulated: see REAL PROPERTY LAW, § 115.

Limitation on devises or bequests: see DECEDENT ESTATE LAW, § 17.

§ 40. Gifts to the state of obligations of another state; how held. Whenever any person or persons, copartnership, corporation or association shall give, bequeath or assign to the state of New York any bonds, warrants, choses in action or other obligations of any other state, the governor is hereby authorized in his discretion, to receive and accept the same for the benefit of the state and the right and title thereto and therein shall thereupon pass to and vest in this state and the same and all the proceeds thereof when collected shall be held by the comptroller in a special account or fund subject to be appropriated by the legislature only for the support of common schools, or for the promotion of some educational interest in the state.

Whenever it shall be necessary to protect or assert the right or title of the state to any such bonds, warrants, choses in action or other obligations so received, or to collect or enforce the same or any part thereof, principal or interest, the attorney-general is hereby authorized and directed to take the necessary and proper proceedings or to bring suit thereon in the name of the state in

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any court of competent jurisdiction, state or federal, and to prosecute all such suits or proceedings to a termination.

This section was derived from L. 1905, ch. 388, §§ 1, 2.

§ 41. Estimates for purchase of staple articles of supplies. Whenever the superintendent, agent and warden or other managing officer of a state institution is required by law to submit to any state commission, department or officer, an estimate of the expense required for such institution during any subsequent period, such estimate may, if authorized by the commission, department or officer whose duty it is to revise the same, and if such authorization be approved by the comptroller, include an amount sufficient for the purchase of certain staple articles of supplies for the use of such institution for a period beyond that for which such estimate is ordinarily made.

This section was derived from State Finance Law, L. 1897, ch. 413, § 40, as added by L. 1904, ch. 448, § 1.

Officials not to be interested in sales, leases, or contracts: see PENAL LAW, § 1868.

Prison officers not to be interested in prison contracts: see PENAL LAW, § 1828.

Cited.—This section was cited in Op. Atty.-Gen. (1909) 700, in connection with the construction of section 45 of the State Charities Law, relating to monthly estimates of expenses of state institutions reporting to the fiscal supervisor.

§ 42. State raised products to be preferred. The officers, boards, commissions and departments whose duty it is to purchase supplies for the maintenance of inmates in state institutions shall, in purchasing such supplies, give preference to products raised within the state, price and quality being equal.

This section was derived from L. 1899, ch. 32, § 1.

Section as applicable to manufactured products.—The provisions of the present section relating to the purchase of supplies for the maintenance of inmates in state institutions applies to products raised within the state. Ranges and cooking utensils are manufactured commodities and cannot be classified as products raised within the state, nor can they be classed as supplies for the maintenance of the inmates. Op. Atty.-Gen. (1908) 324.

§ 42-a. Emergency relief by state institutions during a state of war. During the present war the state department, board, commission or officer having jurisdiction and control of the administration of any state institution, state asylum, state hospital, state prison or reformatory, with the approval of the governor and state comptroller, may loan to or set aside for the temporary use of the United States government or the government of the state of New York, or of any department of the United States or of the state of New York, or of any relief or preparedness organization,

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such accommodations or supplies of such institution, and may utilize such of the labor of the inmates or employees of such institution, as is practicable, to meet the temporary emergency.

New. Added by L. 1917, ch. 596.

§ 43. State contracts not to be assigned without consent; penalties if done. A clause shall be inserted in all specifications or contracts hereafter made or awarded by the state, or any public department or official thereof, prohibiting any contractor, to whom any contract shall be let, granted or awarded, as required by law, from assigning, transferring, conveying, sub-letting or otherwise disposing of the same, or of his right, title or interest therein, or his power to execute such contract to any other person, company or corporation, without the previous consent in writing of the department or official awarding the same.

If any contractor, to whom any contract is hereafter let, granted or awarded, as required by law, by the state, or by any public department or official thereof, shall, without the previous written consent specified in the first paragraph of this section, assign, transfer, convey, sublet or otherwise dispose of the same, or his right, title or interest therein, or his power to execute such contract, to any other person, company or other corporation, the state, public department or official, as the case may be, which let, made, granted or awarded said contract, shall revoke and annul such contract, and the state, public department or officer, as the case may be, shall be relieved and discharged from any and all liability and obligations growing out of said contract to such contract, and to the person, company, or corporation to whom he shall assign, transfer, convey, sublet or otherwise dispose of the same, and said contractor, and his assignee, transferee, or sub-lessee, shall forfeit and lose all moneys, theretofore earned under said contract except so much as may be required to pay his employees; provided that nothing herein contained shall be construed to hinder, prevent or affect an assignment by such contract for the benefit of his creditors, made pursuant to the statutes of this state.

This section was derived from L. 1897, ch. 444, §§ 1, 2.

Contractors not to assign contracts with municipality without its consent: see GENERAL MUNICIPAL LAW, § 86.

Order for money due on contract as an assignment thereof.—A contractor by giving an order upon a fund to accrue from the performance of a contract, neither assigns, sublets nor disposes of the contract nor his power to execute the same, within the meaning of the present section. Brace v. Gloversville, (1901) 167 N. Y. 452, 60 N. E. 779, affirming 39 App. Div. 25, 56 N. Y. S. 331.

Assignment to corporation of which assignor is president and manager.—There is an assignment within the meaning of the present section although the assignor is the president and manager of the corporation to which the assignment is made. Suburban Electric Light Co. v. Hempstead, (1899) 38 App. Div. 355, 56 N. Y. S. 443.

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Subletting portion of work.— The present section was enacted for the purpose of preventing a brokerage in public contracts; to prevent a party from obtaining the contract and then assigning the whole of it to some one else, and thus relieving himself of responsibility in respect thereto. The statute, therefore, does not prevent a practical mason who has obtained a contract for the erection of a brick building from subletting the carpenter work to a practical carpenter. Ocorr, etc., Co. v. Little Falls, (1902) 77 App. Div. 592, 79 N. Y. S. 251, affirmed (1904) 178 N. Y. 622, 70 N. E. 1104.

Cited.—This section was cited in General Fireproofing Co. v. Keepsdry Constr. Co., (1916) 173 App. Div. 528, 160 N. Y. S. 179, reversing 93 Misc. 635, 158 N. Y. S. 567, in connection with the construction of section 16 of the Lien Law. See LIEN LAW, § 16, note.

§ 43-a. Retained percentages may be withdrawn. A clause may be inserted in any contract hereafter made or awarded by the state, or by any public department or official thereof, providing that the contractor may, from time to time, withdraw the whole or any portion of the amount retained from payments to the contractor pursuant to the terms of the contract, upon depositing with the state comptroller securities of a market value equal to the amount so withdrawn, said securities to be of a character in which the savings banks of the state of New York are authorized by law to invest moneys. The said clause may further provide that the state comptroller shall, from time to time, collect all interest or income on the securities so deposited, and shall pay the same, when and as collected, to the contractor who deposited the securities. The said clause may further provide that if the deposit be in the form of coupon bonds, the coupons as they respectively become due shall be delivered to the contractor. The said clause may further provide that the contractor shall not be entitled to interest or coupons or income on any of the deposited securities, the proceeds of which shall be used or applied by the state, or by any public department or official thereof, pursuant to the terms of the contract.

New. Added by L. 1916, ch. 176, § 2.

§ 44. When money paid into court to be paid to state treasurer. Whenever any sum of money, paid into court, shall have remained in the hands of any county treasurer, or of the chamberlain of the city of New York, for the period of twenty years, it shall be paid over by such officer with all accumulations of interest thereon, after deducting his legal fees, to the treasurer of the state of New York. The said treasurer shall pay such sum to the owner or owners thereof upon the presentation to him of the warrant of the comptroller therefor. The comptroller shall draw his warrant for such sum upon the presentation to him of an order of the court made in accordance with section seven hundred and fifty-one of the code of civil procedure and upon due notice to said comptroller.

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The foregoing section was derived from L. 1892, ch. 651, § 9.

General provisions as to payment of money into court: see Code Civ. Pro., § 743 et seq.

Constitutionality.—This section is a valid enactment. People v. Keenan, (1905) 110 App. Div. 537, 97 N. Y. S. 77, affirmed (1906) 185 N. Y. 600, 78 N. E. 1108.

Application of section.—This section seems to apply only to moneys paid into court and which have remained unclaimed for a period of twenty years or more. People v. Keenan, (1909) 132 App. Div. 331, 117 N. Y. S. 42.

It has been held, however, that the present section applies only where there are or may be known or ascertainable claimants; that it does not apply to funds the sources of which cannot be traced. Matter of Stevenson, (1910) 137 App. Div. 789, 122 N. Y. S. 664.

Balances of intestate estates.—Balances of intestate estates remaining in the hands of the city chamberlain for twenty years should be turned over to the state treasurer. Op. Atty.-Gen. (1917), reported in 10 St. Dept. Rep. 510.

Money appropriated to make good defalcations in surrogate's office as "paid into court."—It has been held that county moneys appropriated and paid over to the surrogate of the county to make good losses suffered by various persons in consequence of defalcations in the surrogate's office are not moneys "paid into court" within the meaning of the present section. Matter of New York, (1910) 137 App. Div. 803, 122 N. Y. S. 656, reversed on other grounds (1910) 200 N. Y. 138, 93 N. E. 689.

§ 45. Public accounts to be kept in dollars, dimes and cents. All accounts and other computations of money in the treasury and other public offices, whether state or local, shall be kept and made out, in the money of account of the United States, that is to say: in dollars or units, dimes or tenths, cents or hundredths, mills or thousandths; a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mill the thousandth part of a dollar.

This section was derived from R. S. Pt. 1, ch. 19, tit. 3, § 1.

§ 46. Certain expenses shall be state charges. The following expenses shall be payable out of the treasury of the state:

1. The expense of the publication of an appointment or revocation of an appointment by the governor changing the place of holding a term of a court of record, pursuant to section eight of the judiciary law.

2. The expenses of publication of an appointment of a term or terms of an appellate division, pursuant to section thirty-three of the executive law.

3. The expense of the publication of appointments of terms of the supreme court, pursuant to section thirty-three of the executive law.

4. The expense of printing the copies of the calendars for the terms of the appellate division of the supreme court, to be audited by the comptroller.

5. Where the fees or other charges of an officer are chargeable to the state, they must be audited by the comptroller, and paid on his warrant, except as otherwise specially prescribed by law.

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The foregoing section was derived from Code Civ. Pro. as follows: Subd. 1 from § 39 pt.; subd. 2 from § 226 pt.; subd. 3 from § 233 pt.; subd. 4 from § 20 pt.; subd. 5 from § 3295.

Power of court to order publication of appointments of terms of court.— What publications should be given to the appointments of the terms of court is a prudential or administrative matter, and properly comes within the scope of the legislative power and not within the judicial power. People v. Hill, (1885) 36 Hun 619, holding that the supreme court had no authority to order the publication of the appointments of the terms of court in a newspaper or to direct the payment of the expense thereof. This case was cited and followed in People v. Greene County, (1886) 39 Hun 299.

§ 47. Annual reports to legislature by institutions entitled to receive money from state. All institutions and societies entitled by law to receive money from the state shall make an annual report to the legislature on or before the fifteenth day of January in each year, and no such money shall be paid in any such case until such report is made.

This section was derived from L. 1869, ch. 645, § 3.

Printing and distribution of reports to legislature: see STATE PRINTING LAW, § 10.

§ 48. Statement of desired appropriations to be filed with comptroller. On or before November fifteenth in each year there shall be filed with the comptroller by each state officer, head of department, or proper officer of each state hospital, asylum, charitable or reformatory institution, the state commission in lunacy, the state board of charities, the state department of health, the forest, fish and game commission, and all other state commissions, commissioners and boards, now existing or hereafter constituted, a statement in detail of all moneys, together with the reasons therefor, for which any general or special appropriation is desired at the ensuing session of the legislature by such state officer, department, commission, commissioners and boards. The comptroller may also, from time to time, and in his discretion, require any such state officers, departments, commissions, commissioners or boards to report to him as to such other fiscal affairs as the comptroller shall deem necessary for the proper compilation of the tabulation provided for by section forty-nine of this chapter. The comptroller shall also receive and file in his office a statement of any desired appropriation for any purpose which may be presented to him on or before November fifteenth in each year by any individual, corporation or association, including municipal corporations intending to present the same at the ensuing session of the legislature. Each of the reports and statements of desired appropriations thus made shall be in a form to be prescribed by the comptroller. The reports and statements of desired appropriations hereinbefore provided for shall be public records.

New. Added by L. 1910, ch. 149, § 1.

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§ 49. Duty of comptroller as to tabulation of statements. On or before December fifteenth in each year the comptroller shall make a tabulation of such statements and reports, provided for by section forty-eight of this chapter, in printed form, accompanied by comparative data and estimates of income, together with such comments and a statement of such other matters as he shall deem necessary and proper for the full comprehension of such tabulation, and shall transmit such tabulation to the governor immediately and to the legislature on the first day of its next session. Such tabulation so transmitted shall also contain a statement of all moneys required by the comptroller, *togther with the reasons therefor, for which any general or special appropriation is desired by him at the ensuing session of the legislature, together with such comparative and other data as the comptroller shall deem necessary and proper for the full comprehension of such last mentioned statement.

New. Added by L. 1910, ch. 149, § 1.

§ 50. Separate specifications for contract work for the state. Every officer, board, department, commission or commissions charged with the duty of preparing specifications or awarding or entering into contracts for the erection, construction or alteration of buildings for the state, when the entire cost of such work shall exceed one thousand dollars, must have prepared separate specifications for each of the following branches of work to be performed:

1. Plumbing and gas fitting.
2. Steam heating, hot water and ventilating apparatus.

Such specifications must be so drawn as to permit separate and independent bidding upon each of such classes of work enumerated in the above subdivisions. All contracts hereafter awarded by the state, or a department, board, commission, commissioner or officer thereof, for the erection, construction or alteration of buildings or any part thereof, shall award the respective work specified in the above subdivisions separately to responsible and reliable persons, firms or corporations. Nothing in this section shall be construed to prevent the authorities in charge of any state building from performing any such branches of work by or through their regular employees, or in the case of public institutions, by the inmates thereof.

New. Added by L. 1912, ch. 514, § 2.

§ 51. Workmen's compensation insurance on public works. Each contract to which the state, any public department or official thereof, or a commission appointed pursuant to law is a party and

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which is of such a character that the employees engaged thereon are required to be insured by the provisions of chapter forty-one of the laws of nineteen hundred and fourteen, known as the workmen's compensation law, and acts amendatory thereto, shall contain a stipulation that the same shall be void and of no effect unless the person or corporation making or performing the same shall secure compensation for the benefit of, and keep insured during the life of said contract, such employees, in compliance with the provisions of said law.

New. Added by L. 1916, ch. 478.

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ARTICLE 3

General Fund

Section 55. General fund.
56. Payments out of the general fund.

§ 55. General fund. The stocks, debts and other property known as the general fund of this state, the income and revenues thereof, and the additions which may be made thereto, shall continue to be known as the general fund. All money paid into the treasury of the state, not belonging to any specific fund established by law, belongs to and is part of the general fund, and the comptroller is hereby authorized to transfer from the general fund to the free school fund and the canal fund the amount of appropriations made by the legislature payable from such funds and to transfer such amounts as shall be necessary to keep intact the various funds of the state.

This section was derived from State Finance Law, L. 1897, ch. 413, § 50, as amended by L. 1902, ch. 366, § 2.

Sinking fund and restriction of use: see Constitution, Art. VII, § 5.

Disposition of moneys forfeited on canal improvement contracts.—It was ruled in Op. Atty.-Gen. (1911) 37, that since the Shinnecock and Peconic canal improvement (L. 1887, ch. 460), although under the direction of the superintendent of public works, was not a part of the state canal system, and the appropriation therefor was made from the general and not from the canal fund, moneys forfeited by the contractor for non-fulfilment of the contract for the improvement should go into the general fund of the state. On the other hand the contract for the construction of culvert 45 on the Erie canal being under the direction of the canal board, moneys forfeited upon abandonment of the contract became a part of the canal funds of the state.

See in this connection Op. Atty.-Gen. (1898) 181.

§ 56. Payments out of the general fund. All moneys authorized by law to be paid out of the treasury of the state and not payable from any specific fund established by law shall be paid out of the general fund.

This section was derived from State Finance Law, L. 1897, ch. 413, § 51.

Appropriation bills: see Constitution, Art. III, § 21.

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ARTICLE 4

Canal Funds

Section 60. Canal fund.
61. Commissioners of the canal fund.
62. Deposit of funds.
63. Charges on the canal fund.
64. Rules and regulations.
65. When money may be borrowed for the canal fund.

§ 60. Canal fund. The canal fund shall continue to consist of the following property:

1. Real property granted for the construction of the canals, by the state, by companies or by individuals, and remaining unsold.
2. Debts due for portions of such real property heretofore sold.
3. All moneys received from the sale or use of the surplus waters of any canal.
4. All moneys recovered in suits for penalties or damages instituted under the canal law.
5. All moneys required by law to be paid into the canal fund.

This section was derived from State Finance Law, L. 1897, ch. 413, § 60.
Surplus canal waters: see Canal Law, § 100 et seq.
Appropriation of lands and water for canal purposes: see Canal Law, § 80 et seq.
Application of funds derived from sale or lease of canals: see Constitution, Art. VII, § 8.
Cited.—This section was cited in Op. Atty.-Gen. (1911) 37, in connection with the question of the disposition of moneys forfeited upon the abandonment of certain canal contracts. See supra, § 55, note.

§ 61. Commissioners of the canal fund. The canal fund and the canal debt sinking fund shall continue to be superintended and managed by the commissioners of the canal fund, a majority of whom, including the comptroller, shall be a quorum for the transaction of business. The care and disposition of all lands belonging to the canal fund shall be vested in the commissioners of the land office. Investments for the canal fund and the canal debt sinking fund shall be made by the comptroller, subject to the approval of the commissioners of the canal fund, in the securities in which he is authorized by law to invest the other funds of the state.

This section was derived from State Finance Law, L. 1897, ch. 413, § 61.
Commissioners of canal fund: see Constitution, Art. V, § 5.
Commissioners of land office: see Constitution, Art. V, § 5.
Term "quorum" defined: see General Construction Law, § 41.
General provisions relating to canal board: see Canal Law, § 15 et seq.
Transaction of business in absence of comptroller.—The commissioners of the canal fund cannot transact business in the absence of the comptroller. Op. Atty.-Gen. (1909) 487.

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§ 62. Deposit of funds. The commissioners of the canal fund may deposit the moneys belonging to such fund, or the canal debt sinking fund, with any safe incorporated moneyed institution or banking association in this state, and may make such contracts therewith for the interest on and the duration of such deposits as will best promote the interest of the funds. They may require security for the deposit of such moneys by surety undertaking or a deposit of bonds issued by the state of New York in the same manner as is provided by section eight of article two of this chapter from depositories of other state moneys.

This section was derived from State Finance Law, L. 1897, ch. 413, § 62, as amended by L. 1905, ch. 372, § 2.

Discretion of commissioners as to security for deposits.—The provision with reference to security for the deposit of canal funds seems to be optional and not mandatory upon the commissioners. Op. Atty.-Gen. (1911) 124; Op. Atty.-Gen. (1909) 389.

Duty of comptroller when bonds are deposited and surety bond given.—When a depository of canal funds has both given a surety company bond and made a deposit of state bonds as security, it is the comptroller's duty, upon the insolvency of the depository, to first proceed against the surety company, giving it an opportunity to make payment and claim subrogation to the right and interest of the state in the bonds deposited. Op. Atty.-Gen. (1908) 169.

Single bond for general and canal fund deposits.—Depositories of state moneys may give one bond as security for deposits of both general and canal funds. Op. Atty.-Gen. (1910) 577.

Delegation of authority to comptroller and treasurer as to deposits.—The commissioners of the canal fund cannot delegate to the state comptroller and state treasurer the authority to determine the amount of money to be deposited in banks. Op. Atty.-Gen. (1909) 492.

The attorney-general appears to have been of a different opinion a few months before. See Op. Atty.-Gen. (1909) 487.

Preference of state as depositor of canal funds.—It was held in Matter of Carnegie Trust Co., (1912) 206 N. Y. 390, 96 N. E. 1096, 46 L. R. A. (N. S.) 260, affirming 151 App. Div. 606, 136 N. Y. S. 466, that the state having canal funds on deposit with an insolvent trust company was entitled to preference in payment over other depositors and creditors not having a prior specific lien on the assets.

In this connection see United States Fidelity, etc., Co. v. Carnegie Trust Co., (1914) 161 App. Div. 429, 435, 146 N. Y. S. 801, 804, affirmed (1914) 213 N. Y. 629 mem.; United States Fidelity, etc., Co. v. Borough Bank, (1914) 161 App. Div. 479, 146 N. Y. S. 870, affirmed (1914) 213 N. Y. 628 mem.

State funds as preferred claims: see BANKING LAW, § 188 note.

Cited.—This section was cited in Op. Atty.-Gen. (1911) 273, in connection with the question as to the right of selection by the state treasurer of depositories from which funds are to be drawn to pay the certificates issued by the comptroller. See supra, § 3, note.

It was cited in People v. Bristol, (1869) 1 Lans. 45, in connection with the question as to the discretion of the state treasurer in the selection of depositories from which funds are to be drawn in payment of certificates issued by the comptroller. See supra, § 3, note.

§ 63. Charges on the canal fund. All moneys expended in the construction, repair or improvement of the canals now authorized by law, or allowed or expended by the commissioners of the canal fund, or the superintendent of public works or other officer or as-

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sistant employed on such canals pursuant to law, with the compensation of such officers respectively, including the salary of the superintendent of public works, shall be charged to the canal fund unless otherwise expressly provided by law.[1] The comptroller shall also charge to such fund from time to time so much for the services of the clerks in his office, devoted to the accounts and revenues of the canals, as in his opinion is just, [2]and he is hereby authorized in his discretion to transfer from time to time such amounts of the surplus of canal fund to the general fund as may not be needed to meet the expenses incident to the maintenance and repair of canals.

This section was derived from State Finance Law, L. 1897, ch. 413, § 63. It was amended by L. 1913, ch. 267. The amendments are shown in the footnotes.

§ 64. Rules and regulations. The commissioners of the canal fund from time to time, shall prescribe such rules and regulations relative to the transfer of all or any of the public stocks of this state, constituting the debt known as the canal debt, and the division and consolidation of the certificates thereof, as they think advisable. They may require such returns to be made to the comptroller by the officer or person authorized by law to transfer such stocks, and pay the interest on any loan, as they deem reasonable.

This section was derived from State Finance Law, L. 1897, ch. 413, § 64.
Commissioners of canal fund: see CONSTITUTION, Art. V, § 5.
General provisions relating to canal board: see CANAL LAW, § 15 et seq.
Cited.—This section was cited by the attorney-general in Op. Atty.-Gen. (1909) 487, in giving an outline of the general powers and duties of the commissioners of the canal fund.
It was cited in Op. Atty.-Gen. (1911) 102, in connection with the question as to the power of the commissioners of the canal fund to designate an agent to carry out the provisions of the contract made by the commissioners with the Manhattan Company in the city of New York, pursuant to chapter 288 of the Laws of 1840, relative to the establishment of an office therein for the issue and transfer of certificates of stock issued for state loans.

§ 65. When money may be borrowed for the canal fund. If the legislature, the canal board, the commissioners of the canal fund or the superintendent of public works, lawfully authorize or require the payment of any sum of money out of the canal fund, for any purpose connected with canal expenditures, and there is not money in such fund applicable to such purpose, the commissioners of the canal fund may borrow such sum of money, payable in such time not exceeding eighteen years, and bearing such rate

[1] "and" omitted. Section formerly consisted of one sentence.
[2] Remainder of section new.

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of interest not exceeding five per centum, as they deem most beneficial to the interests of the state, and the comptroller may issue bonds therefor in the manner provided by law.

This section was derived from State Finance Law, L. 1897, ch. 413, § 65.

Members of canal board: see CONSTITUTION, Art. V, § 5.

General provisions relating to canal board: see CANAL LAW, § 15 et seq.

Commissioners of canal fund: see CONSTITUTION, Art. V, § 5.

Power to contract state debts: see CONSTITUTION, Art. VII, §§ 2, 4.

Legislature to provide for superintendence and repair of canals: see CONSTITUTION, Art. VII, § 9.

Cited.—This section was cited in Op. Atty.-Gen. (1909) 487, in connection with an outline of the general powers and duties of the commissioners of the canal fund.

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*ARTICLE 5

Education Fund

Section 80. The education fund.
81. Investments.
82. United States deposit fund.
83. Discharge and cancellation of mortgages.
84. Books and records.
85. Supervision of existing United States deposit fund mortgages.
86. Release of part of premises.
87. Power of comptroller to maintain actions.
88. Foreclosure of United States deposit fund mortgages.
89. Disposition of surplus moneys; principal to be deposited.
90. Supervision of lands.
91. Audit of loan commissioners' accounts.
92. Certified copy of original mortgage.
93. Payments to Cornell University on account of the college land scrip fund.

§ 80. The education fund. The common school fund, the literature fund, and the United States deposit fund, shall continue to consist of all moneys, securities or other property in the treasury of the state, or under the control of any state officer, and of all debts due the state, or real property owned by it, belonging to such funds. The proceeds of all lands which belonged to the state on January first, eighteen hundred and twenty-three, except the parts thereof reserved or appropriated to public use, or deeded to the United States, shall belong to the common school fund. In case of any diminution of capital belonging to the common school fund, United States deposit fund or literature fund, there shall be transferred to the capital of such fund or funds from the income thereof so much as may be necessary to preserve the capital inviolate. Of the income of the United States deposit fund, twenty-five thousand dollars shall annually be added to the capital of the common school fund. It shall be the duty of the comptroller, at the close of each fiscal year, to transfer to the general fund the remainder of the income of the common school fund, United States deposit fund and literature fund, which together with such amounts as may be raised or received by taxation or otherwise for educational purposes, shall constitute the education fund, and appropriations therefrom may be made annually for the support of the educational system of the state, to be apportioned by the com-

* This article was amended "to read as follows" by L. 1911, ch. 634.

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missioner of education in the manner provided by law, which apportionment shall be certified by the commissioner of education to the comptroller for distribution and payment. The amount appropriated by the legislature for the support and maintenance of the common school system of the state shall be payable from the treasury upon the warrant of the comptroller, and the comptroller shall countersign and enter all checks drawn by the treasurer in payment of his warrants, and all receipts of the treasurer for such payments paid to the treasurer, and no such receipts shall be evidence of payment unless they be so countersigned.

This section was derived from State Finance Law, L. 1897, ch. 413, § 80. The amendment of article 5 by L. 1911, ch. 634 made no change in this section.

Educational funds: see CONSTITUTION, Art. IX, § 3.

School moneys: see EDUCATION LAW, § 490 et seq.

Retirement fund for teachers in state institutions: see EDUCATION LAW, § 1095 et seq.

State teachers' retirement fund for public school teachers: see EDUCATION LAW, § 1100 et seq.

Legislature to provide for free common schools: see CONSTITUTION, Art. IX, § 1.

§ 81. Investments. The comptroller shall invest and keep invested all moneys belonging to the common school, literature [1]and United States deposit funds in the stocks and bonds of the United States and of this state, or for the payment of which the faith and credit of the United States or of this state are pledged, or in the judgments or awards of the court of claims of the state, or in the stocks or bonds of any county, town, city, village or school district of the state authorized to be issued by law. The comptroller, whenever he deems it for the best interest of such funds, or either of them, may dispose of any of the securities therein or investments therefor, in making other investments authorized by law, and he may exchange any such securities for those held in any other of such funds, and the comptroller may draw his warrant upon the treasurer for the amount required for such investments and exchanges. The care and disposition of all lands belonging to the literature fund and the common school fund shall be vested in the commissioners of the land office.[2]

This section was derived from State Finance Law, L. 1897, ch. 413, § 81. It was amended by L. 1910, ch. 201, § 1. The amendments are shown in the footnotes. The amendment of article 5 by L. 1911, ch. 634 made no change in this section.

Commissioners of land office: see CONSTITUTION, Art. V, § 5.

Investments in court of claims judgments.—It was ruled in Op. Atty.-Gen. (1916) 358, that the comptroller might pay judgments of the court of claims for property appropriated for the state reservation at Saratoga out of any balance of proceeds received from the sale of bonds issued for the reserva-

[1] "and United States deposit" new.

[2] Remainder of section which related to payment to loan commissioners of the principal of the United States deposit fund, omitted.

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tion. Trust funds in his care might also be invested in such judgments, the constitutional limitation being observed that the outstanding unsecured state debt should never exceed $1,000,000.

Investment of loan commissioners.—Investments of the United States deposit funds were formerly in charge of the federal loan commissioners of the various counties of the state. The power of these commissioners to make loans of these funds was taken away by chapter 201 of the Laws of 1910, and the office of loan commissioner was terminated and abolished by chapter 634 of the Laws of 1911. A number of cases and opinions of the attorney-general have dealt with the rights, powers and duties of these commissioners. See Thompson v. Com'rs. for Loaning Certain Moneys, (1879) 79 N. Y. 54; Olmsted v. Elder, (1851) 5 N. Y. 144; Powell v. Tuttle, (1850) 3 N. Y. 396; Switzer v. Com'rs. for Loaning Certain Moneys, (1909) 134 App. Div. 487, 119 N. Y. S. 383; Watkins v. Clough, (1907) 119 App. Div. 527, 103 N. Y. S. 270; Plumtrie v. Dratt, (1863) 41 Barb. 333; Fellows v. Com'rs. for Loaning U. S. Moneys, (1862) 36 Barb. 655; Matter of Carpenter, (1849) 7 Barb. 30; Commissioners v. Chase, (1849) 6 Barb. 37; Way v. Hayes, (1910) 124 N. Y. S. 648; Barley v. Roosa, (1891) 20 Civ. Pro., 113, 13 N. Y. S. 209; Sherwood v. Reade, (1844) 7 Hill 431; White v. Lester, (1864) 4 Abb. App. Dec. 585. Op. Atty.-Gen. (1909) 921; Op. Atty.-Gen. (1909) 936; Op. Atty.-Gen. (1905) 283; Op. Atty.-Gen. (1899) 144; Op. Atty.-Gen. (1899) 401; Op. Atty.-Gen. (1898) 243; Op. Atty.-Gen. (1897) 123; Op. Atty.-Gen. (1896) 65; Op. Atty.-Gen. (1893) 134.

Legality of loans by loan commissioners after termination of power.—It was ruled in Op. Atty.-Gen. (1910) 503, that the act of 1910 (L. 1910, ch. 201) having taken away from the federal loan commissioners the power to make loans of moneys belonging to the United States deposit fund after April 29, 1910, all loans made by them from such fund subsequent to that date were illegal so far as the state was concerned.

§ 82. United States deposit fund. The part of the United States deposit fund received out of the surplus money of the treasury of the United States, under the thirteenth section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June twenty-third, eighteen hundred and thirty-six, is held by the state on the terms, conditions and provisions specified in such act of congress, and the faith of the state is inviolably pledged for the safe keeping and repayment of all moneys thus received from time to time, whenever the same shall be required by the secretary of the treasury of the United States, under the provisions of such act. The comptroller and the treasurer of the state shall keep the accounts of the moneys belonging to the United States deposit fund in the books of their respective offices, separate and distinct from the state funds, and in such manner as to show the amount of principal of the fund, the amount received from the interest, the amount paid from the annual revenue and the objects to which the same have been applied. If there shall be any loss in the loans of the moneys belonging to the United States deposit fund, it shall be a charge on the interest derived from the loan of such moneys, and none of the interest moneys shall be paid out for any purpose until such loss has been made good thereon. The comptroller shall have full charge and control over the United States deposit fund, including that part of such fund now invested in mortgages in the different counties of the state.

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The foregoing section was derived from State Finance Law, L. 1897, ch. 413, § 82. It was amended by L. 1911, ch. 634, § 1. This amendment added the last sentence in the section.

Capital of United States deposit fund to be preserved inviolate: see CONSTITUTION, Art. IX, § 3.

§ 83. Appointment and qualification of loan commissioners. [Repealed.]

This section which was derived from State Finance Law, L. 1897, ch. 413, § 83, was omitted in the amendment of article 5 by L. 1911, ch. 634, § 1. By section 3 of the last cited statute the office of loan commissioner was abolished.

§ 83. Discharge and cancellation of mortgages. The comptroller may cancel and discharge any mortgage, on satisfactory proof that the moneys loaned and secured by such mortgage have been fully paid to the officers authorized by law to receive the same if the mortgage remains uncancelled and undischarged of record.

This section was derived from State Finance Law, L. 1897, ch. 413, § 84. It was amended, and renumbered section 83 by L. 1911, ch. 634, § 1. The section formerly provided for the cancellation and discharge of mortgages by the loan commissioners on direction of the comptroller.

§ 84. Books and records. The book or books of mortgages executed to the loan commissioners shall remain in the clerk's office of the county, and in the city and county of New York in the office of the register. During office hours any person may search and examine any book required to be kept by this article.

This section was derived from State Finance Law, L. 1897, ch. 413, § 86. It was amended and renumbered section 84 by L. 1911, ch. 634, § 1. The amendment omitted provisions relating to the powers of a single loan commissioner, and also omitted provisions relating to the keeping on record the proceedings of the loan commissioners.

Recording books: see REAL PROPERTY LAW, § 315.

§ 85. Bond of commissioners. [Repealed.]

This section was derived from State Finance Law, L. 1897, ch. 413, § 85. It was omitted in the amendment of article 5 by L. 1911, ch. 634, § 1. The office of loan commissioner was abolished by section 3 of the last cited statute.

§ 85. Supervision of existing United States deposit fund mortgages. The comptroller shall have charge of the mortgages heretofore executed to the commissioners for loaning certain moneys of the United States on lands in the several counties of the state, which mortgages shall continue with the same force and effect as if this chapter were not enacted. The rate of interest on such mortgages shall be five per centum per annum, and shall be due annually on the first Tuesday of October. The comptroller shall collect and receive the interest arising on every such mortgage. In case of failure to pay such interest before the first day of

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November next following the date when the same became due, the comptroller shall report such failure to the attorney-general within fifteen days after the said first day of November. The comptroller shall receive payment of the principal or any part thereof of any such mortgage on lands when tendered and immediately pay the same into the state treasury, and shall satisfy and discharge the same by the execution and acknowledgment of a satisfaction piece in the usual form, which shall be recorded by the county clerk, who shall thereupon write upon the margin of such mortgage, in the book containing the same in his office, a statement to the effect that the same has been discharged and satisfied by the comptroller, giving the date thereof. Such mortgages may be assigned by the said comptroller on such terms and on such conditions as may be satisfactory to the comptroller.

This section was derived from State Finance Law, L. 1897, ch. 413, § 87. It was amended by L. 1910, ch. 201, § 1. It was also amended and renumbered section 85 by L. 1911, ch. 634, § 1. This amendment consisted in the substitution of the comptroller in place of the loan commissioners, which office was abolished by section 3 of the last cited statute.

§ 86. Release of part of mortgaged premises. If the owner of mortgaged premises sell a part thereof, the comptroller, on application and with the consent of the mortgagor or such owner may release the part of the mortgaged premises sold from the lien of the mortgage. Such release, however, shall not be given unless a sum approved by the comptroller shall be first paid upon the mortgage and unless the part of the mortgaged premises remaining unsold, exclusive of buildings and prior liens, is worth double the residue of the mortgage debt. The comptroller shall execute such release in the usual form, which, when acknowledged, shall be recorded by the county clerk and a minute thereof made upon a margin of the mortgage.

This section was derived from State Finance Law, L. 1897, ch. 413, § 88. It was amended and renumbered section 86 by L. 1911, ch. 634, § 1. The amendment omitted former provisions relating to the opening of a new account against the purchaser for his proportionate share of the moneys unpaid on the mortgage.

§ 87. Power of comptroller to maintain actions. The comptroller may, at any time *time before the sale of the mortgaged premises, bring an action to restrain the commission of waste by any person upon the mortgaged premises, or to correct any mistake or omission in the description thereof, or to recover the amount due on a mortgage. At any time before payment and discharge of mortgage or before sale, if any person cuts or removes or injures the timber, fences, buildings or other fixtures belonging

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to such mortgaged premises, or threatens so to do, the comptroller may maintain a like action for damages or an injunction.

This section was derived from State Finance Law, L. 1897, ch. 413, § 89. It was amended and renumbered section 87 by L. 1911, ch. 634, § 1. The amendment substituted the comptroller in place of the loan commissions, the latter office being abolished by the last cited statute section 3.

Action for waste: see Code Civ. Pro., § 1651 et seq.

§ 88. Foreclosure of United States deposit fund mortgages. If the interest due on any such mortgage shall not be paid on the first Tuesday of October of any year, or before the first day of November next following, or the principal or any part thereof shall not be paid when due, the comptroller shall cause all such mortgages upon which default is made in the payment of principal or interest to be foreclosed, whenever, in his judgment, it may be necessary or best for the protection of the interest of the state. All actions or proceedings for that purpose shall be prosecuted or conducted by the attorney-general, in the supreme court or in the county court of the county where the mortgaged premises are located, and in conformity with the practice in such case made and provided.

This section was derived from State Finance Law, L. 1897, ch. 413, § 90, as amended by L. 1898, ch. 360, § 4, with new matter derived from the same law, § 6. It was amended by L. 1910, ch. 201. It was amended and renumbered section 88 by L. 1911, ch. 634, § 1. Before the last amendment the section provided, that on failure of the payment of principal or interest the state should be seized of an absolute estate in fee of the mortgaged promises; specified the method of forclosure, and provided for redemption.

§ 89. Disposition of surplus moneys; principal to be deposited. The comptroller shall, within twenty days after receiving the money arising from the sale of the mortgaged premises as provided in the preceding scetion, pay into the county treasury the surplus exceeding the sum due and to become due on the mortgage and the costs and expenses of the foreclosure, and shall, within such time, pay over the residue of the sum arising from the sale of such mortgaged premises, less the amount which he is entitled to retain for his costs, disbursements and expenses, to the state treasury. The provisions of the code of civil procedure relating to the disposition of the surplus money arising from the foreclosure of mortgages are hereby made applicable to the surplus arising from the sale of mortgaged premises as prescribed in the preceding section.

This section was derived from State Finance Law, L. 1897, ch. 413, § 90a, as added by L. 1899, ch. 458, § 1, and from L. 1898, ch. 360, § 7, as amended by L. 1902, ch. 28, § 1. It was amended by L. 1910, ch. 210. It was consolidated as section 91. It was further amended and renumbered section 89 by L. 1911, ch. 634. Previous to the last amendment the section provided in detail for the disposition of surplus moneys by the loan commissioners.

Disposition of surplus on foreclosure: see Code Civ. Pro., § 1633.

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§ 90. Supervision of lands. The comptroller shall exercise supervision and care over property acquired by the state through the foreclosure of United States deposit fund mortgages and may lease such property until it is disposed of according to law. The comptroller shall not be directly or indirectly interested in the purchase of any mortgaged premises; if so interested such sale shall be void.

This section was derived from State Finance Law, L. 1897, ch. 413, § 91, and consolidated as section 92. It was amended by L. 1909, ch. 520, § 1, and amended and renumbered section 90 by L. 1911, ch. 634, § 1. Prior to the last amendment the section provided in detail for the bidding in of mortgaged premises on foreclosure by the commissioners and the care and administration of the property by them.

Officials not to be interested in sales, leases or contracts: see PENAL LAW, § 1868.

§ 91. Audit of loan commissioner's accounts. At any time within one year from the rendition of any loan commissioner's report, the comptroller shall audit and adjust the account of any such commissioner for the moneys received, paid out or retained by him under this article, and fix and determine the amount due the state on account thereof, and make a certificate to that effect, which shall be presumptive evidence of the amount due the state in any action or proceeding against such commissioner or the sureties on his undertaking.

This section was derived from State Finance Law, L. 1897, ch. 413, § 92, and consolidated as section 93. It was amended and renumbered section 91 by L. 1911, ch. 634, § 1. This statute, by which the loan commissioners were abolished, provided, by section 2, for a special report from the commissioners to the comptroller, to be made within a specified time and to cover all of the commissioners' transactions from December 31, 1910 to the date of the report.

§ 92. Certified copy of original mortgage. On the application of any person interested, the comptroller shall furnish a certified copy of any original mortgage which has been delivered to him pursuant to law, and the same may be recorded in the office of the clerk of the county where the mortgaged premises are situated.

This section was derived from State Finance Law, L. 1897, ch. 413, § 93, and consolidated as section 94. It was renumbered § 92, by L. 1911, ch. 634, § 1. The amendments of article 5 by the last cited statute made no change in this section.

Form of certificate to copies: see Code Civ. Pro., § 957.

§ 93. Payments to Cornell university on account of the college land scrip fund. The acceptance by this state of the provisions of an act of the congress of the United States, approved July second, eighteen hundred and sixty-two, entitled "An act donating public lands to the several states and territories which

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may provide colleges for the benefit of agriculture and mechanic arts," and which acceptance is contained in chapter twenty of the laws of eighteen hundred and sixty-three, is continued in force, notwithstanding the repeal thereof by this chapter. The money raised under chapter seventy-eight of the laws of eighteen hundred and ninety-five, by the sale or conversion into cash of the securities in which were invested the proceeds of the sales of lands and land scrip, formerly constituting the college land scrip fund, together with the money paid into the state treasury from the sale of lands or land scrip belonging to such fund, is held by the state as a part of the general fund for the benefit and use of Cornell university. Five per centum of the amount of the proceeds so transferred to the general fund shall annually be paid to the Cornell university, pursuant to a certificate issued by the comptroller to such university, by virtue of chapter seventy-eight of the laws of eighteen hundred and ninety-five, which certificate is hereby ratified and confirmed. Certificates shall also be issued by the state to such university from time to time, as the proceeds of the sales of the lands and land scrip are paid into the treasury, for the payment annually of five per centum upon such proceeds from the date of their receipt upon the same conditions as the original certificate. The comptroller in his annual estimate of the appropriations required for the expenses of the government shall include the amount required to pay the interest on these certificates.

This section was derived from State Finance Law, L. 1897, ch. 413, § 96, and was consolidated as section 97. It was renumbered section 93 by L. 1911, ch. 634, § 1. The amendment of article 5 by the last cited statute made no change in this section.

General provisions relating to Cornell University: see EDUCATION LAW, § 1030 et seq.

History of land scrip fund.—For a history of the college land scrip fund and of the legislation relating thereto, see Cornell University v. Fiske, (1890) 136 U. S. 152, 10 S. Ct. 775, 34 U. S. (L. ed.) 427, affirming (1888) 111 N. Y. 66, 19 N. E. 233, 2 L. R. A. 387, which affirmed 45 Hun 354, 10 N. Y. St. Rep. 495; People v. Davenport, (1889) 117 N. Y. 549, 23 N. E. 664, modifying 30 Hun 177.

§ 95. Fees of loan commissioners. [Repealed.]

This section was derived from State Finance Law, L. 1897, ch. 413, § 94. It was omitted in the amendment of article 5 by L. 1911, ch. 634, § 1. The office of loan commissioner was abolished by section 3 of the last cited statute.

§ 96. Powers and duties of boards of supervisors as to loan mortgages. [Repealed.]

This section was derived from State Finance Law, L. 1897, ch. 413, § 95. It was omitted in the amendment of article 5 by L. 1911, ch. 634, § 1. The office of loan commissioner was abolished by section 3 of the last cited statute.

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ARTICLE 6

Miscellaneous Funds

Section 100. Military record fund.
101. Mariners' fund.
102. Chancery fund.
103. Prison fund.

§ 100. Military record fund. All moneys contributed and paid over to the treasurer of the state by towns, cities and individuals for the erection of a hall of military record belong to the military record fund. Such fund shall be invested in the same manner as other state funds and a separate account thereof shall be kept by the state treasurer. The interest arising from the investment of such fund shall be used in the maintenance of such quarters in the state capitol as shall be set apart for the safe keeping of military records, books and property, and for the display of colors, standards, battle flags and relics, which is known as the hall of military record.

This section was derived from State Finance Law. L. 1897, ch. 413, § 100.
Divisions of history and public records: see Education Law, § 1190 et seq.
Rooms for Grand Army of the Republic in state capitol: see Public Buildings Law, § 5.

§ 101. Mariners' fund. The loan of ten thousand dollars made by the comptroller to the trustees of the American Seamen's Friend society in the city of New York, pursuant to chapter one hundred and seventy-three of the laws of eighteen hundred and forty, and continued by chapter thirty-seven of the laws of eighteen hundred and forty-five, shall constitute the mariners' fund. Such loan shall be secured by mortgage satisfactory to the comptroller and may be retained by such trustees, without payment of interest, as long as they shall faithfully use and apply the same to promote the benevolent objects of the sailor's home, erected for the boarding and accommodation of seamen in such city.

The trustees of such institution may mortgage the sailors' home for a term not less than seven years to secure the debts due from, or money loaned to, them for the lawful purpose of such institution, to an amount not exceeding fifteen thousand dollars. Such mortgage shall be a lien on such home prior to the lien held by the state to secure the loan mentioned in this section, provided all other liens and incumbrances on such home be discharged and canceled of record.

No sale of such sailors' home upon the foreclosure of any mortgage prior to the lien of the state shall be had without, at least,

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six weeks' previous notice of such sale served personally upon the comptroller.

This section was derived from State Finance Law, L. 1897, ch. 413, § 101.

§ 102. Chancery fund. All moneys, securities and real estate formerly under the control and in possession of the court of chancery, and transferred to the comptroller by the clerk of the court of appeals, pursuant to chapter one hundred and thirty-five of the laws of eighteen hundred and ninety-four, is credited to the general fund and is a part thereof. The comptroller is authorized to convert into cash the securities, real estate and other property belonging to the fund so transferred, and may execute good and sufficient deeds for the conveyance of such real property.

A person claiming any portion of such property, shall apply to a court of competent jurisdiction after due notice to the comptroller of the time and place of making such application, for an order directing the payment of such portion to him. Upon such order and the warrant of the comptroller the treasurer shall pay such portion to him.

This section was derived from State Finance Law, L. 1897, ch. 413, § 102.
Cited.—This section was cited in Op. Atty.-Gen. (1913) 471, in connection with the question as to whether certain tax sales in the city of Albany were effective to divert the state comptroller of titles as trustee of certain lands purchased with chancery funds.

§ 103. Prison fund. The prison fund shall consist of all moneys raised by taxation for prison purposes or heretofore appropriated and unexpended therefor, and all moneys arising from the sale of the products or property of the prisons, and all such moneys, whenever received in the treasury, shall be placed to the credit of such fund; and all appropriations made for any of the prisons of this state except for repairs other than the ordinary repairs thereof for the maintenance thereof, for the purchase of materials therefor, and for manufacturing therein, shall be paid by the treasurer from such fund, upon the warrant of the comptroller.

This section was derived from L. 1887, ch. 637, § 1.

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ARTICLE 7

Laws Repealed; When to Take Effect

Section 110. Laws repealed.
111. When to take effect.

§ 110. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 111. When to take effect. This chapter shall take effect immediately.

Schedule of Laws Repealed

Revised Statutes.. Part 1, chapter 8, title 3..... All
Revised Statutes.. Part 1, chapter 8, title 4..... All
Revised Statutes.. Part 1, chapter 9, titles 2–4, 6. All
Revised Statutes.. Part 1, chapter 19, title 3, section 1, except part relating to accounts arising in courts

Laws of	Chapter	Section
1778.....	18.....	All
1778.....	23.....	All
1778.....	35.....	4
1778.....	40.....	All
1779.....	15.....	All (2d Sess..)
1779.....	20.....	All (2d Sess.)
1779.....	8.....	All (3d Sess.)
1780.....	46.....	All
1780.....	64.....	1–5
1780.....	72.....	All
1780.....	73.....	All
1780.....	7.....	All (4th Sess.)
1780.....	11.....	1–7, 9–14 (4th Sess.)
1781.....	19.....	All
1781.....	20.....	1, 7, 8
1781.....	22.....	All
1781.....	46 .....All	
1781.....	49.....	6
1781.....	50.....	All
1781.....	51.....	8–10
1781.....	55.....	1–4
1781.....	56.....	All
1781.....	58.....	All
1781.....	3.....	All (5th Sess.)
1781.....	9.....	All (5th Sess.)

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Laws of	Chapter	Section
1781.....	11.....	All (5th Sess.)
1782.....	21.....	All
1782.....	28.....	All
1782.....	33.....	All
1782.....	37.....	2, 5–12
1782.....	41.....	All
1782.....	46.....	12–14
1782.....	4.....	All (6th Sess.)
1782.....	5.....	All (6th Sess.)
1782.....	6.....	5, 8, 9 (6th Sess.)
1783.....	24.....	All
1783.....	33.....	All
1783.....	34.....	2
1784.....	14.....	All (7th Sess.)
1784.....	19.....	All
1784.....	44.....	All
1784.....	45.....	All
1784.....	58.....	18
1784.....	64.....	38–42
1784.....	65.....	33, 41, 43
1785.....	32.....	All
1785.....	53.....	All
1785.....	60.....	1–10
1785.....	76.....	1
1785.....	80.....	5, 16, 18, 21
1785.....	90.....	11
1786.....	19.....	All
1786.....	20.....	All
1786.....	40.....	All
1786.....	48.....	All
1786.....	56.....	13
1786.....	64.....	All
1787.....	73.....	5, 6
1787.....	83.....	All
1787.....	102.....	1, 2, 14
1788.....	30.....	All
1788.....	39.....	All
1788.....	95.....	1, 2, 13–15
1789.....	8.....	All
1789.....	20.....	All
1789.....	29.....	All
1790.....	13.....	All
1790.....	20.....	All
1790.....	21.....	All
1790.....	31.....	All

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Laws of	Chapter	Section
1791.....	16.....	All
1791.....	40.....	All
1791.....	49.....	All
1792.....	1.....	All (15th Sess.)
1792.....	19.....	All
1792.....	25.....	All
1792.....	47.....	All
1792.....	58.....	All
1792.....	63.....	8
1792.....	71.....	All
1793.....	34.....	All
1793.....	41.....	1, 2
1793.....	52.....	All
1794.....	15.....	All
1794.....	57.....	All
1795.....	56.....	All
1795.....	68.....	All
1796.....	9.....	All
1797.....	4.....	All
1797.....	9.....	All
1797.....	21.....	All
1797.....	23.....	All
1798.....	9.....	All
1798.....	13.....	All
1798.....	36.....	4–9
1798.....	38.....	All
1798.....	74.....	All
1798.....	93.....	6
1799.....	8.....	All
1799.....	16.....	4–6
1799.....	18.....	1–4
1799.....	42.....	All
1800.....	2.....	All
1801.....	33.....	4, 5
1801.....	52.....	1
1801.....	173.....	1, part relating to method of paying salaries; 8, 9
1801.....	185.....	1–21
1802.....	38.....	All
1803.....	1.....	2, 3, 5
1803.....	15.....	All
1803.....	22.....	All
1803.....	103.....	31
1804.....	39.....	1–3, 6
1804.....	111.....	14

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Laws of	Chapter	Section
1805.....	6.....	All
1805.....	19.....	All
1805.....	27.....	All
1805.....	60.....	All
1805.....	66.....	All
1805.....	135.....	33–35, 37
1806.....	157.....	All
1806.....	187.....	5, 6
1807.....	32.....	All
1807.....	74.....	3
1807.....	94.....	All
1807.....	183.....	27
1808.....	24.....	All
1808.....	34.....	All
1808.....	174.....	All
1808.....	215.....	2
1808.....	216.....	All
1808.....	240.....	22, 41
1809.....	77.....	1
1809.....	93.....	All
1809.....	94.....	1
1809.....	152.....	All
1810.....	53.....	2
1810.....	159.....	All
1811.....	55.....	All
1811.....	189.....	All
1811.....	206.....	All
1811.....	246.....	32
1811.....	248.....	1, 2
1812.....	3.....	All
1812.....	17.....	All
1812.....	35.....	All
1812.....	188.....	All
1812.....	222.....	All
1812.....	234.....	1, 2
1812.....	237.....	All
1812.....	239.....	65
1813.....	79.....	2, 3
1813.....	99.....	All
1813.....	122.....	All
1813.....	185.....	1–4
R. L. 1813...	2.....	6–9
R. L. 1813...	6.....	3–5
R. L. 1813...	42.....	1–5, 7–23, 25–28
R. L. 1813...	55.....	2–4, 7, 8, 10, 11

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Laws of	Chapter	Section
R. L. 1813	84	All
1814	17	4
1814	120	11
1814	132	All
1814	152	All
1814	200	23, 41, 49
1814	11	4 (38th Sess.)
1815	56	All
1815	84	All
1815	111	All
1815	141	All
1815	223	All
1815	266	13, 29, 35, 36
1816	49	All
1816	236	16, 17, 21, 28, 30, 32, 35, 36, 43
1816	5	3 (40th Sess.)
1817	194	All
1817	262	1, 5
1818	38	All
1818	233	All
1818	282	All
1819	36	All
1819	48	All
1819	70	All
1819	212	All
1820	33	All
1820	117	6, 7
1820	187	All
1820	244	All
1821	36	1, 7
1821	74	8
1821	114	All
1821	177	All
1821	189	1, 2
1821	240	7–9
1822	6	All
1822	124	1–3
1822	127	2, 3
1822	193	1
1822	249	1–5, 8, 9
1822	255	1–3
1823	56	All
1823	96	All
1823	104	All
1823	147	2

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Laws of	Chapter	Section
1823.....	180.....	All
1823.....	267.....	All
1824.....	25.....	1
1824.....	54.....	All
1824.....	163.....	All
1824.....	241.....	All
1824.....	250.....	All
1824.....	255.....	All
1824.....	278.....	All
1824.....	302.....	All
1824.....	311.....	All
1824.....	333.....	All
1824.....	337.....	All
1825.....	185.....	All
1825.....	256.....	All
1825.....	272.....	All
1825.....	292.....	All
1825.....	318.....	All
1825.....	321.....	All
1826.....	298.....	All
1826.....	304.....	6
1826.....	305.....	All
1826.....	314.....	20–23
1826.....	321.....	1, 2
1827.....	2.....	All
1827.....	110.....	2
1827.....	219.....	30
1827.....	228.....	All
1828.....	275.....	All
1828.....	300.....	All
1828.....	324.....	All
1828.....	21.....	1, ¶¶ 158, 184, 246, 262, 273, 275, 287, 321, 330, 355, 365, 369, 380, 388, 413, 420, 448, 455, 487, 488, 501, 513, (2d Meet.)
1829.....	91.....	All
1829.....	201.....	All
1829.....	325.....	All
1829.....	376.....	4
1830.....	184.....	All
1830.....	242.....	All
1831.....	102.....	All
1831.....	281.....	All
1831.....	286.....	All

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Laws of	Chapter	Section
1831.....	320.....	All
1831.....	323.....	3
1832.....	8.....	All
1832.....	118.....	All
1832.....	164.....	1
1832.....	296.....	All
1833.....	56.....	All
1833.....	74.....	All
1833.....	274.....	All
1834.....	59.....	All
1834.....	130.....	All
1834.....	284.....	All
1835.....	182.....	All
1835.....	260.....	All
1836.....	356.....	All
1836.....	464.....	All
1836.....	470.....	All
1837.....	2.....	All
1837.....	63.....	All
1837.....	102.....	All
1837.....	150.....	All
1837.....	360.....	All
1838.....	58.....	All
1838.....	193.....	All
1838.....	237.....	All
1838.....	333.....	16
1839.....	198.....	All
1839.....	381.....	All
1840.....	37.....	All
1840.....	97.....	All
1840.....	161.....	All
1840.....	194.....	All
1840.....	288.....	1–12
1840.....	294.....	All
1840.....	358.....	All
1841.....	49.....	All
1841.....	194.....	All
1841.....	238.....	All
1841.....	264.....	All
1842.....	34.....	All
1842.....	114.....	All
1842.....	310.....	All
1843.....	44.....	All
1843.....	48.....	All
1843.....	240.....	2

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Laws of	Chapter	Section
1844.....	15.....	All
1844.....	314.....	All
1844.....	326.....	All
1845.....	37.....	All
1845.....	184.....	All
1845.....	267.....	All
1846.....	326.....	All
1847.....	8.....	All
1847.....	17.....	All
1847.....	18.....	All
1847.....	99.....	All
1847.....	258.....	All
1847.....	277.....	11
1847.....	293.....	All
1847.....	438.....	All
1847.....	476.....	All
1848.....	162.....	All
1848.....	215.....	All
1848.....	216.....	All
1848.....	366.....	All
1849.....	225.....	All
1849.....	228.....	All
1849.....	230.....	All
1849.....	232.....	All
1849.....	301.....	All
1849.....	382.....	13
1850.....	332.....	All
1850.....	337.....	All
1850.....	375.....	2
1851.....	197.....	All
1851.....	285.....	All
1851.....	286.....	All
1851.....	351.....	All
1851.....	410.....	All
1851.....	454.....	All
1851.....	501.....	All
1851.....	536.....	All
1852.....	235.....	All
1852.....	315.....	All
1852.....	370.....	All
1853.....	36.....	All
1853.....	222.....	All
1853.....	254.....	All
1855.....	23.....	All
1855.....	335.....	2–5

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L. 1909, ch. 58 Schedule of Laws Repealed

Laws of	Chapter	Section
1855.....	535.....	3
1856.....	3.....	All
1857.....	592.....	All
1857.....	783.....	All
1858.....	263.....	All
1860.....	213.....	6, 7
1860.....	490.....	All
1860.....	494.....	All
1861.....	102.....	All
1861.....	177.....	All
1861.....	227.....	All
1862.....	25.....	All
1862.....	29.....	All
1862.....	223.....	All
1862.....	462.....	All
1863.....	20.....	All
1863.....	200.....	All
1863.....	73.....	All
1863.....	460.....	All
1864.....	170.....	4
1864.....	182.....	5
*1864.....	185.....	4
1864.....	229.....	All
1864.....	266.....	All
1864.....	280.....	2, 3
1864.....	304.....	All
1864.....	305.....	4
1864.....	401.....	1, part providing for liens against the real estate of institutions and corporations benefited.
1864.....	419.....	All
1864.....	553.....	All
1865.....	56.....	All
1865.....	182.....	4, 5
1865.....	226.....	3
1865.....	294.....	All
1865.....	325.....	1–7
1866.....	209.....	All
1867.....	488.....	All
1867.....	704.....	All
1868.....	554.....	All

* Stricken from schedule and expressly re-enacted by L. 1909, ch. 240, § 88, in effect April 22, 1909, as though never included in said schedule.

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Laws of	Chapter	Section
1868.....	698.....	All
1868.....	830.....	3
1869.....	645.....	3
1869.....	669.....	All
1869.....	756.....	All
1870.....	379.....	All
1871.....	654.....	2
1871.....	718.....	3
1872.....	115.....	All
1873.....	760.....	2, part last paragraph beginning with the words "The comptroller is authorized at all times" to end of paragraph
1874.....	323.....	2, third paragraph from end of section
1874.....	500.....	All
1876.....	192.....	1, last paragraph
1876.....	302.....	All
1877.....	245.....	All
1878.....	233.....	All
1878.....	291.....	All
1880.....	100.....	All
1880.....	517.....	All
1882.....	108.....	All
1883.....	69.....	All
1883.....	364.....	All
1883.....	517.....	All
1884.....	250.....	All
1884.....	412.....	2, 3
1885.....	267.....	5, 6
1886.....	330.....	1, part beginning at "The managers, trustees" to end of section
1887.....	245.....	All
1887.....	460.....	1, part, last seven paragraphs beginning with "The managers, trustees"
1887.....	637.....	All
1888.....	326.....	All
1888.....	464.....	All
1889.....	50.....	All
1889.....	136.....	All
1889.....	570.....	1, part, last seven paragraphs beginning with "The manager, trustee," etc.

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Laws of	Chapter	Section
1891.....	181.....	All
1892.....	651.....	9
1893.....	672.....	All
1894.....	135.....	All
1894.....	678.....	All
1895.....	78.....	All
1895.....	818.....	All
1896.....	191.....	All
1897.....	413.....	All
1897.....	444.....	All, except part relating to counties and municipal corporations
1898.....	360.....	All
1899.....	32.....	All
1899.....	383.....	All
1899.....	458.....	All
1899.....	479.....	All
1899.....	580.....	All
1899.....	715.....	All
1900.....	326.....	1
1901.....	432.....	All
1901.....	457.....	All
1901.....	645.....	1, part second paragraph on page 1617, beginning "all fees, interest and expenses" and ending "rejected by the comptroller"
1901.....	678.....	All
1902.....	28.....	All
1902.....	59.....	All
1902.....	366.....	All
1903.....	239.....	All
1903.....	350.....	All
1904.....	95.....	All
1904.....	97.....	All
1904.....	225.....	All
1904.....	448.....	All
1905.....	372.....	All
1905.....	388.....	All
1905.....	504.....	All
1905.....	587.....	All
1906.....	575.....	All
1907.....	561.....	All

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Laws of	Chapter	Section
1908.....	188.....	All
Code Civil Procedure.....		20, word "except" to end of section; 39, words "and the expense" to end of section; 226, last sentence; 233, last sentence; 744, part relating to duty of comptroller; 3295

NOTE TO SCHEDULE OF REPEALS

Prepared by the Board of Statutory Consolidation and printed in their report of 1907, *at page* 5381.

12. R. S., Pt. 1, Ch. 19. Tit. 3, § 1. Consolidated in State Finance Law, § 45, except the part relating to courts which is consolidated in Judiciary Law, § 35.

13. L. 1778, Ch. 18. Obsolete. Appoints commissioners to receive subscriptions to loan money to the United States under the resolution of Congress passed Nov. 22, 1777.

14. L. 1778, Ch. 23. Obsolete. Authorizes the treasurer of the state to pay into the treasury of the United States $200,000, and to procure treasury receipts therefor.

15. L. 1778, Ch. 35, § 4. Obsolete. Authorizes the treasurer of the state to pay accounts on the audit of the auditor general, and on joint order, or resolution of the senate and assembly.

16. L. 1778, Ch. 40. Obsolete. Requires debts due the state to be paid within six months, and charges them with interest at the rate of fifteen pounds on every one hundred pounds per annum if not paid.

17. L. 1779, Ch. 15 (2d session). Obsolete. Provides for the cancelling and destruction of bills of credit of the denomination of one dollar and under.

18. L. 1779, Ch. 20 (2d session). Obsolete. Provides for the calling in and exchange of certain Continental currency.

19. L. 1779, Ch. 8 (3d session). Obsolete. Provides for the appointment of a commissioner of the loan office of the United States for this state.

20. L. 1780, Ch. 46. Obsolete. Provides for the cancellation of defaced bills of credit.

21. L. 1780, Ch. 64. Section 3 was repealed by L. 1781, Ch. 19, § 1 (4th session); balance of act approves the act of congress providing for financing the government, and makes provision for redeeming the state's proportion of the bills of credit to be issued under said act.

22. L. 1780. Ch. 72. Section 1 pt. specified in schedule was repealed by L. 1781, Ch. 19, § 1 (4th session); sections 2 and 3

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were repealed by L. 1781, Ch. 58, § 1 (4th session). Balance of act is supplemental to the act making provisions for redeeming bills of credit, and sustaining the value of new bills issued; obsolete.

23. L. 1780, Ch. 73. Obsolete. Provides for the payment of moneys taken on loan by the state.

24. L. 1780, Ch. 7 (4th session). Obsolete. Provides for the liquidation and settlement of claims for pay due troops of this state in the service of the United States, because of the depreciation of the currency.

25. L. 1780, Ch. 11, §§ 1-7, 9-14 (4th session). Obsolete. Provides for the sale of certain forfeited and other lands to provide specie for paying part of the bills of credit emitted on the credit of the state.

26. L. 1781, Ch. 19. Obsolete. Establishes the rate of exchange between bills of credit and Continental currency.

27. L. 1781, Ch. 20, §§ 1, 7, 8. Provides for the appointment of commissioners to procure money on loan, and to purchase clothing, and bind the state in contracts made and entered into therefor; obsolete.

28. L. 1781, Ch. 22. Section 4 was repealed by L. 1781, Ch. 55, § 1; balance of act obsolete. It extends the provisions of L. 1870, Ch. 7, to certain persons named.

29. L. 1781, Ch. 46. Obsolete. Provides for the issue of bills upon the credit of the state.

30. L. 1781, Ch. 49, § 6. Obsolete. Prohibits the state treasurer from paying certain drafts made by congress.

31. L. 1781, Ch. 50. Obsolete. Provides for the recovery of debts due to and the settlement of accounts with the state and allowance for depreciation and scale of exchange values.

32. L. 1781, Ch. 55, §§ 1-4. Obsolete. Further providing for the liquidating and settling of the accounts of troops of the state in the service of the United States.

33. L. 1781, Ch. 56. Obsolete. Provides for the payment of interest on bills of credit.

34. L. 1781. Ch. 3 (5th session). Obsolete. Authorizes state treasurer to exchange old money issues for new.

35. L. 1781, Ch. 11 (5th session). Obsolete. Requires the several county treasurers to report to the legislature the amounts assessed and collected under the several tax levies since the Declaration of Independence.

36. L. 1782, Ch. 21. Obsolete. Provides for the appointment of an auditor, and prescribes his duties and compensation and authorizes the state treasurer to pay on his audit.

37. L. 1782, Ch. 33. Sections 1 and 2 were repealed by L. 1785, Ch. 60, § 1 (8th session); balance of act indemnifies loan

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officers for omission to sell lands mortgaged to them for non-payment of interest.

38. L. 1782, Ch. 37, §§ 2, 5-11. Obsolete. Provides that all wheat and rye received for taxes be sold or made into flour and sold and the proceeds paid into the state treasury; directs the appointment of a commissioner to adjust and settle claims against the state; inhibits the further issue of bills of credit; names commissioners to instruct commissioners named to adjust and settle accounts, and directs the state treasury to pay certain commissioners and pledges the credit of the state.

39. L. 1782, Ch. 41. Obsolete. Relates to the settlement of the accounts of the troops of the state in the service of the United States.

40. L. 1782, Ch. 46, §§ 12-14. Obsolete. Provides for the provisioning of troops called out for the defense of the frontier.

41. L. 1782, Ch. 4 (6th session). Obsolete. Provides for the appointment of a commissioner to settle accounts between the state and the United States.

42. L. 1782, Ch. 5 (6th session). Obsolete. Authorizes congress to adjust and settle the state's proportion of the expenses of the war.

43. L. 1782, Ch. 6, §§ 5, 8, 9 (6th session). Obsolete. Provides for the disposition of money raised by tax and authorizing the governor to take money on loan.

44. L. 1783. Ch. 24. Obsolete. Refers to settlement of accounts of troops of the state in service of United States.

45. L. 1783. Ch. 33. Obsolete. Provides for the relief of certain officers and troops.

46. L. 1783, Ch. 34, § 2. Obsolete. Provides for the settlement of certain officers' accounts in the department of the general staff.

47. L. 1784, Ch. 14 (7th session). Spent. Continues L. 1782 Ch. 21, the act appointing an auditor and prescribing his duties.

48. L. 1784, Ch. 19. Obsolete. Concerns settlement of accounts of troops.

49. L. 1784, Ch. 44. Section 10 was repealed by L. 1785, Ch. 90, § 11; balance is obsolete. Facilitates the settling of accounts of this state with the United States.

50. L. 1784. Ch. 58, § 18. Obsolete. Authorizes auditor to audit accounts of certain commissioners.

51. L. 1784, Ch. 64. §§ 38-42. Obsolete. Concerns estates forfeited to, and directed to be sold for the use of, the people of the state.

52. L. 1784, Ch. 65, §§ 33, 41, 43. Obsolete. Directs the suspension temporarily of prosecution of certain loan officers; also directs that interest be paid on loans taken by the governor and

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provides that certain certificates issued by the state treasurer shall be negotiable.

53. L. 1785, Ch. 32. Obsolete. Appoints commissioners to cancel bills of credit issued when the state was a colony.

54. L. 1785, Ch. 53. Obsolete. Directs the state treasurer to pay money to the treasury of the United States.

55. L. 1785. Ch. 60, §§ 1-10. Act enabling persons to discharge debts due to state for moneys loaned while the state was a colony.

56. L. 1785, Ch. 76, § 1. Obsolete. Provides that the loan officers shall pay into the treasury the species of moneys actually received by them.

57. L. 1785, Ch. 80, §§ 5, 16, 18, 21. Section 5 was repealed by L. 1792, Ch. 58, § 2; sections 16, 18 and 21 authorize the treasurer to issue an interest-bearing certificate for reward for apprehending deserters, provide for the prosecution of sheriffs for moneys unaccounted for, and postpone time for bringing suits against state agent; obsolete.

58. L. 1786, Ch. 19. Obsolete. Makes certain public securities negotiable.

59. L. 1786, Ch. 20. Spent. Concerning L. 1782, Ch. 21, the act appointing an auditor and prescribing his duties.

60. L. 1786, Ch. 40. Section 24 was repealed by L. 1788, Ch. 20, § 5 (11th session); balance of act obsolete. Provides for issuing bills of credit to the value of two hundred thousand pounds to increase circulation.

61. L. 1786, Ch. 48. Obsolete. Provides for certain payments to the United States.

62. L. 1786, Ch. 56, § 13. Obsolete. Authorizes state treasurer to procure money to meet requisition made by congress on this state.

63. L. 1786, Ch. 64. Obsolete. Supplemental to L. 1786, Ch. 40, authorizing bills of credit.

64. L. 1787, Ch. 73, §§ 5, 6. Obsolete. Authorizes treasurer to redeem bills of credit.

65. L. 1787, Ch. 83. Obsolete. Authorizes the treasurer to pay requisition made by congress on the state.

66. L. 1787, Ch. 102, §§ 1, 2. Obsolete, Provides for the issue of certificates for the amounts paid into the state treasury because of the resolution of the Committee of Safety.

67. L. 1788, Ch. 30. Obsolete. Provides for the issue of bills of credit to take up former issue being counterfeited.

68. L. 1788, Ch. 39. Spent. Concerns the appointment of auditor, and the collection of quit rents.

69. L. 1788, Ch. 95, §§ 1, 2, 13-15 Section 15 was repealed by L. 1790, Ch. 31, § 5; sections 1 and 2 constitute the state auditor sole commissioner to settle accounts with the United

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States; sections 13 and 14 relate to arrears of rent on forfeited estates and actions by treasurer for forfeitures. Obsolete.

70. L. 1789, Ch. 8. Obsolete. Authorizes treasurer to receive payment of certain debts in public securities.

71. L. 1789, Ch. 20. Obsolete. Authorizes state treasurer to pay to United States arrears in former requisitions.

72. L. 1789, Ch. 29. Obsolete. Provides for cancelling certain bills of credit and gives further direction to the loan officer.

73. L. 1790, Ch. 13. Spent. Concerning L. 1782, Ch. 21, the act appointing an auditor.

74. L. 1790, Ch. 20. Obsolete. Appoints commission to receive and audit claims against the state.

75. L. 1790, Ch. 21. Obsolete. Provides for exchanging bills of credit.

76. L. 1790, Ch. 31. Obsolete. Provides for exchanging certain public securities.

77. L. 1791, Ch. 16. Obsolete. Provides for inducing subscriptions to United States loan.

78. L. 1791, Ch. 40. Obsolete. Enacts general directions for loan officers.

79. L. 1791, Ch. 49. Obsolete. Authorizes state treasurer to subscribe for shares in the Bank of the United States.

80. L. 1792, Ch. 1 (15th session). Obsolete. Authorizes and directs state treasurer to subscribe for shares in the Bank of New York.

81. L. 1792, Ch. 19. Amends L. 1782, Ch. 21, providing for the appointment of an auditor and fixing his duties. Obsolete.

82. L. 1792, Ch. 25. Obsolete. Provides for the appointment of loan officers and the loaning of state funds.

83. L. 1792, Ch. 47. Obsolete. Provides for paying unclaimed pay certificates due the levies and militia.

84. L. 1792, Ch. 58. Obsolete. Provides that interest shall not be allowed on certain certificates; and that treasurer make certain deposits in the Bank of New York.

85. L. 1792, Ch. 63, § 8. Obsolete. Provides how appropriations are to be paid.

86. L. 1792, Ch. 71. Obsolete. Enacts certain provisions governing loan officers and supervisors.

87. L. 1793, Ch. 34. Obsolete. Concerns the survivors of persons appointed to sign bills of credit.

88. L. 1793, Ch. 41, §§ 1, 2. Obsolete. Provides that all debts and demands due to or from the state except quit rents be paid in money.

89. L. 1793, Ch. 52. Obsolete. Provides for the payment of state agents' certificates.

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90. L. 1794, Ch. 57. Amending L. 1782, Ch. 21, providing for appointment of an auditor and fixing his duties. Obsolete.

91. L. 1795, Ch. 56. Obsolete. Appoints agents to determine claims to moneys paid by state of Vermont.

92. L. 1795, Ch. 68. Obsolete. Appoints commission to dispose of the state's United States stock, for payment of certain certificates, and for loans.

93. L. 1796, Ch. 9. Amends L. 1782, Ch. 21, providing for appointment of an auditor and fixing his duties. Obsolete.

94. L. 1797, Ch. 4 Obsolete. Authorizes state treasurer to receive principal due on any stock held in trust for the state.

95. L. 1797, Ch. 23. Obsolete. Provides for making changes in the state funds to increase income.

96. L. 1798, Ch. 9. Spent. Provides for the custody of state funds and property during vacancy in office of treasurer.

97. L. 1798, Ch. 13. Obsolete. Directs comptroller to give order on treasurer in favor of senate and assembly clerks for contingent legislative expenses.

98. L. 1798, Ch. 38. Sections 4-11 were repealed by L. 1801, Ch. 193; balance is obsolete. Provides for closing accounts of the state treasurer.

99. L. 1798, Ch. 74. Spent. Temporarily extends certain provisions of L. 1795, Ch. 56, concerning moneys paid by the state of Vermont.

100. L. 1798, Ch. 93, § 6. Section 6 pt., from word "all" in line 5, to and including the word "Ulster" in line 9, repealed by L. 1808, Ch. 174, § 2. Balance of section provides for assessing deficiencies arising from loans made by loan officers. Obsolete.

101. L. 1799, Ch. 16, §§ 4-6. Obsolete. Provides for annual report of state treasurer, fixes his salary, names certain banks as depositories for state funds and provides how payments be made from loan officers. Superseded by L. 1892, Ch. 683, and L. 1897, Ch. 413.

102. L. 1799, Ch. 18, §§ 1-4. Obsolete. Provides for the inspection of certain loan officers' records, for sale of mortgaged lands in certain cases and confirms certain appointments.

103. L. 1799, Ch. 42. Obsolete. Provides for the cancellation and destruction of certain bills of credit.

104. L. 1800, Ch. 2. Obsolete. Authorizes the comptroller to allow certain expenses of commissioners of taxes.

105. L. 1802, Ch. 38. Spent. Extends time for payment of loans of state moneys theretofore made.

106. L. 1803, Ch. 1, §§ 1-3, 5. Section 2 pt., last thirty-three words and section 3, were repealed by L. 1804, Ch. 39, § 6. Sections 1–3 were repealed by L. 1813, Ch. 202. Section 5 appoints committee to destroy certain bills of credit. Obsolete.

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107. L. 1803, Ch. 15. Obsolete. Authorizes new record books for loan officers.

108. L. 1803, Ch. 22. Spent. Temporarily continues L. 1801, Ch. 185, relating to the office and duties of comptroller.

109. L. 1804, Ch. 48, § 1. Obsolete. Authorizes the comptroller to pay the United States the amount of the direct tax due and unpaid.

110. L. 1804, Ch. 113. Obsolete. Appropriates certain avails of second lottery.

111. L. 1805, Ch. 6. Obsolete. Directs the secretary of state to dispose of military bounty land warrants and pay proceeds into the state treasury.

112. L. 1805, Ch. 19. Obsolete. Directs redemption of lands sold for United States direct tax.

113. L. 1805, Ch. 27. Obsolete. Extends time for the payment of loans of state moneys.

114. L. 1805, Ch. 60. Obsolete. Continues L. 1801, Ch. 185, relating to the office and duties of comptroller.

115. L. 1805, Ch. 135, §§ 33-35, 37: Section 37 was repealed by L. 1807, Ch. 94, § 1. Sections 33–35 provide for foreclosing unpaid state mortgages. Obsolete.

116. L. 1806, Ch. 187, §§ 5, 6. Section 5 was repealed by L. 1813, Ch. 202. Section 6 appoints commission to destroy certain bills of credit. Obsolete.

117. L. 1807, Ch. 32. Obsolete. Authorizes the comptroller to invest money in the stock of the Merchant's Bank, and appropriates it to the use of the common schools.

118. L. 1808, Ch. 24. Spent. Extends time for the payment of loans of state money.

119. L. 1808, Ch. 34. Spent. Continues L. 1801, Ch. 185, relating to the office and duties of comptroller temporarily.

120. L. 1808, Ch. 174. Obsolete. Provides for assessing deficiencies of loans in Ulster county.

121. L. 1808, Ch. 216. Obsolete. Concerning loans to the counties of the state.

122. L. 1808, Ch. 240, §§ 22, 41. Spent. Restricts temporarily prosecutions by the attorney-general, and authorizes the comptroller to borrow money.

123. L. 1809, Ch. 77, § 1. Spent. Extends time for the repayment of loans of state money.

124. L. 1809, Ch. 93. Obsolete. Extends time of payment of debt from Bank of New York, and directs comptroller to subscribe to certain other bank stocks.

125. L. 1809, Ch. 152. Obsolete. Concerning loans of state moneys to citizens of the state.

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126. L. 1811, Ch. 55. Obsolete. Extends time of payment of loans appropriated to the use of common schools.

127. L. 1811, Ch. 248, §§ 1, 2. Obsolete. Concerning the payment and commutation of quit rents.

128. L. 1812, Ch. 35. Obsolete. Concerning the prosecution of certain delinquents by the attorney-general.

129. L. 1812, Ch. 188. Obsolete. Authorizes the exchange of shares of the Bank of the United States for stock of the Bank of America.

130. L. 1812, Ch. 222. Obsolete. Directs comptroller to assign certain securities to the trustees of the College of Physicians and Surgeons of the western district.

131. L. 1813, Ch. 99. Obsolete. Provides for publishing notices requiring payment of the fees of court clerks and for enforcing payment of said fees.

132. L. 1813, Ch. 185, §§ 1-4. Obsolete. Authorizes loans of state moneys to certain persons, authorizes comptroller to borrow $7,000, appoints commission to liquidate claims for improvement to navigation at Lansingburgh.

133. L. 1814, Ch. 120, § 11. Obsolete. Transfers the right of the state to subscribe to the stock of the Bank of Utica to the College of Physicians and Surgeons.

134. L. 1814, Ch. 132. Obsolete. Authorizes a loan to the Rutland Woollen Manufacturing Company.

135. L. 1814, Ch. 152. Obsolete. Authorizes loan to the town of Stratford to be used in improving a road.

136. L: 1814, Ch. 200, §§ 23, 41, 49. Section 23 was repealed by L. 1818, Ch. 222, § 60, and L. 1823, Ch. 244 § 76. Sections 41 and 49 authorize personal loan by the comptroller, and subscription to certain bank stock. Obsolete.

137. L. 1814, Ch. 11 § 4 (38th session). Obsolete. Requires that notices of dividends on corporate stock owned by the state be given to the comptroller.

138. L. 1815, Ch. 56. Sections 1, 2 and 4 repealed by L. 1828, Ch. 21, § 1, ¶ 184, second meeting; balance of act obsolete. Concerns the rate of interest on loans due from the state.

139. L. 1815, Ch. 84. Obsolete. Authorizes loan to the United States to be used in paying the state militia.

140. L. 1815, Ch. 111. Obsolete. Authorizes the payment of the state's quota of the direct tax to the United States.

141. L. 1815, Ch. 141. Obsolete. Authorizes the comptroller to borrow money, and directs the disposition of the same.

142. L. 1815, Ch. 223. Obsolete. Directs the comptroller to pay the arrearages of the direct tax to the United States.

143. L. 1815, Ch. 266, §§ 13, 29, 35, 36. Obsolete. Changes time when interest is to be reckoned on certain loans; provides for

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statement and adjustment of accounts between the state and the United States and discharges certain banks from certain obligations upon conditions expressed.

144. L. 1816, Ch. 49. Obsolete. Provides for paying state's quota of direct tax to the United States.

145. L. 1816, Ch. 236, §§ 16, 17, 21, 28, 30, 32, 35, 36, 43. Section 16 was repealed by L. 1817, Ch. 86, § 2; §§ 28 and 35 were repealed by L. 1828, Ch. 21, § 1, ¶ 217, 2d meeting; § 43 was repealed by L. 1819, Ch. 161, § 39; §§ 17, 21, 30, 32 and 36 provide for certain expenses of the comptroller; where funded debt interest may be paid; that cancelled bills of credit be burned; that comptroller receive United States treasury notes in payment of interest; that loans may be made to pay debts due to certain banks; obsolete.

146. L. 1817, Ch. 194. Obsolete. Extends time for the payment of loans of state moneys.

147. L. 1817, Ch. 262. This chapter, except so much of §5 as relates to duty on sales at auction, was repealed by L. 1828, Ch. 21, § 1, ¶ 241; so much as was not repealed was superseded by R. S., Pt. 1, Ch. 9, Tit. 2, § 1.

148. L. 1818, Ch. 282. Obsolete. Provides for the redemption of the funded debt and for improving the state funds.

149. L. 1819, Ch. 70. Obsolete. Authorizes the president of the Manhattan Company to have same powers as the cashier in the matter of the transfer of state stocks, and the issuance of certificates.

150. L. 1820, Ch. 33. Obsolete. Provides for disposition of school funds created by L. 1819, Ch. 212. L. 1819, Ch. 212, was repealed by L. 1829, Ch. 21, § 1, ¶ 549, 2d meeting.

151. L. 1820, Ch. 117, §§ 6, 7. Obsolete. Provides how moneys received from the sale of the salt springs' lots shall be applied. Purposes of act have been accomplished.

152. L. 1820, Ch. 187. Obsolete. Authorizes the reimbursement of canal commissioners and authorizes them to borrow money for certain purposes. Purposes of act have been accomplished.

153. L. 1820, Ch. 244. Sections 1–6, 8 were repealed by L. 1828, Ch. 21, § 1, ¶ 549; § 7 is a repealing section and all the statutes which it repeals are included in this schedule; § 9 concerns certain temporary duties of the loan officers of Orange County. Obsolete.

154. L. 1821, Ch. 114. Covered by L. 1892, Ch. 689, § 43. Obsolete. Permits state banks to subscribe to canal fund.

155. L. 1821, Ch. 189, §§ 1, 2. Obsolete. Extends time for the payment of loans of state moneys and defines certain duties of loan officers. Purposes of act have been accomplished.

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156. L. 1822, Ch. 6. Obsolete. Construes R. L. 1813, Ch. 2, which was repealed by L. 1828, Ch. 21, § 1, ¶ 125, 2d meeting.

157. L. 1822, Ch. 124, §§ 1-3. Obsolete. Provides for a state tax and the sale of certain state lands. Purposes of act have been accomplished.

157a. L. 1822, Ch. 249, §§ 1-5, 7-9. Sections 1–3, 7–9 were repealed by L. 1828, Ch. 21, §1, ¶ 365 (2d meeting). Section 5 was repealed by L. 1828, Ch. 21, § 1, ¶ 549 (2d meeting). Section 4 relates to payment of interest on loans made pursuant to L. 1786, Ch. 40, L. 1792, Ch. 25, and L. 1808, Ch. 216, and is obsolete.

158. L. 1823, Ch. 96. Obsolete. Authorizes canal commissioners to borrow money during year 1823, and appropriating the same.

159. L. 1823, Ch. 104. Obsolete. Concerns the payment and commutation of quit rents before January 1, 1824.

160. L. 1823, Ch. 147, §§ 2, 3. Obsolete. Concerns the payment of interest on canal loans for 1823 and extends certain privileges of the Bank of New York for two years.

161. L. 1823, Ch. 180. Section 1 was repealed by L. 1828, Ch. 21, § 1, ¶388; balance of act is obsolete. Concerns the duties of loan officers; Part of provisions are temporary and the remainder are covered by R. S., Pt. 1, Ch. 12, Tit. 2, Art. 3.

162. L. 1823, Ch. 267. Obsolete. Concerns the settlement of accounts of certain state agents. Purposes of act have been accomplished.

163. L. 1824, Ch. 54. Obsolete. Provides for the relief of residents on the Niagara frontier.

164. L. 1824, Ch. 163. Obsolete. Concerns the settlement of accounts of certain state agents. Purposes of act have been accomplished.

165. L. 1824, Ch. 250. Obsolete. Directs the payment of the loan of 1818.

166. L. 1824, Ch. 255. Obsolete. Provides for borrowing money for the completion of the Erie and Champlain canals.

167. L. 1824, Ch. 278. Sections 1–6 were repealed by L. 1828, Ch. 21, § 1, ¶ 420, 2d meeting. Section 7 confirms certain land sales in Jefferson county. Purposes of § 7 have been accomplished. Obsolete.

168. L. 1824, Ch. 302. Obsolete. Permits the canal commissioners to borrow certain moneys of the school fund.

169. L. 1824, Ch. 311. Obsolete. Provides for the investment of the state's surplus moneys then in the treasury.

170. L. 1824, Ch. 333. Obsolete. Provides for transfer of the fever hospital fund to the common school fund.

171. L. 1824, Ch. 337. Obsolete. Provides for the payment of certain government officers.

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172. L. 1825, Ch. 185. Obsolete. Provides for the disposition of surplus moneys arising on land sales. Superseded by R. S., Pt. 1, Ch. 8, Tit. 8, § 10.

173. L. 1825, Ch. 272. Obsolete. Authorizes loan for Oswego canal. Purposes of act have been accomplished.

174. L. 1825, Ch. 292, L. 1840, Chs. 37 and 161, L. 1841, Chs. 194 and 219, § 4, L. 1842, Ch. 34, L. 1843, Ch. 48, L. 1844, Ch. 314, L. 1846, Ch. 326, L. 1848, Ch. 216, L. 1849, Ch. 232, L. 1851, Ch. 501, and L. 1855, Ch. 23. These acts authorize the commissioners of the canal fund to borrow sums of money to meet the then existing expenses of constructing and maintaining the canals and provide for the payment of the said loans. All are now obsolete.

175. L. 1825, Ch. 321. Obsolete. Authorizing deed from one loan commissioner in certain cases. Covered by L. 1897, Ch. 413, § 86.

176. L. 1826, Ch. 305. Sections 2 and 4 were repealed by L. 1828, Ch. 21, § 1, ¶ 488, 2d meeting. Section 1 confirms a certain payment and § 3 provides for temporary use of certain funds Obsolete.

177. L. 1827, Ch. 228. Sections 2–5 were repealed by L. 1828, Ch. 21, § 1, ¶¶ 513 and 549. Section 1 provides for the transfer of certain moneys to the school fund. Purposes have been accomplished. Obsolete.

178. L. 1828, Ch. 275. Authorizes commissioners of canal fund to transfer certain canal funds and to borrow money for the completion of Oswego canal. Purposes of act have been accomplished. Obsolete.

179. L. 1828, Ch. 300. Obsolete. Authorizes sale of canal stock.

180. L. 1828, Ch. 324. Obsolete. Concerns the relief of the Niagara frontier sufferers.

181. L. 1829, Ch. 91. Section 2, pt, beginning "and instead" to end of section was repealed by L. 1836, Ch. 470, § 1, Balance extends time for the payment of loans of state moneys, and provides when R. S., Pt. 1, Ch. 12, Tit 1, shall take effect; has served its purpose. Obsolete.

182. L. 1829, Ch. 201. Obsolete. Authorizes investment of school fund moneys in canal certificates. Purposes of act have been accomplished.

183. L. 1829, Ch. 325. Obsolete. Regulates the investment of certain state funds. Purposes of §§ 1–4 have been accomplished. Section 5 is superseded by L. 1897, Ch. 413, § 61.

184. L. 1829, Ch. 376, § 4. Regulates drawing of money for clerk hire provided for by R. S., Pt. 1, Ch. 9, Tit. 1, § 10. R. S.,

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Pt. 1, Ch. 9, Tit. 1, was repealed by L. 1892, Ch. 683, § 90. Statute is, therefore, inoperative.

185. L. 1831, Ch. 281. Obsolete. Concerns the transfers of certain state funds.

186. L. 1831, Ch. 323, § 3. Obsolete. Provides for the distribution of certain state documents.

187. L. 1832, Ch. 118. Obsolete. Relates to the loans of 1786, 1792 and 1808, and makes regulations concerning the loan commissioners. These matters are now covered by L. 1897, Ch. 413.

188. L. 1832, Ch. 164, § 1. Obsolete. Authorizes the borrowing of money for certain canal purposes.

189. L. 1833, Ch. 74. Obsolete. Concerns the Suffolk county loan commissioners. Covered by L. 1897, Ch. 413, §§ 83, 87.

190. L. 1834, Ch. 59. Obsolete. Concerns loans made for the construction of the Chenango canal.

191. L. 1834, Ch. 130. Obsolete. Authorizes loans to banks, and to citizens of the state to an amount not exceeding $6,000,000.

192. L. 1835, Ch. 182. Obsolete. Authorizes borrowing money for the Chemung canal.

193. L. 1836, Ch. 464. Obsolete. Authorizes loan for the Chenango canal.

194. L. 1836, Ch. 470. Obsolete. Authorizes loan commissioners to reloan.

195. L. 1837, Ch. 63. Obsolete. Authorizes payments to the commissioners of the canal fund.

196. L. 1837, Ch. 150, § 18. L. 1880, Ch. 517, § 2, purports to amend R. S., Pt. 1, Ch. 9, Tit. 14, § 20 but in fact amends L. 1837, Ch. 150, § 18, which was printed in the fourth edition of the Revised Statutes and treated by the author as R. S., Pt. 1, Ch. 9, Tit. 14, § 20.

197. L. 1838, Ch. 333, § 16. Obsolete.

The section cited provided that the state treasurer "may" pay the clerks in the state offices monthly. At the time, the Revised Statutes, Pt. 1, Ch. 9, Tit. 1, § 10, provided for their payment quarterly. The Executive Law gives to the state officers the right to expend the appropriations for clerk hire, subject, of course, to the requirements of the Civil Service Law. They may pay monthly if they choose, and since the repeal of Revised Statutes, Pt. 1, Ch. 9, Tit. 1, by L. 1892, Ch. 683, this act cited is unnecessary.

198. L. 1839, Ch. 198. Obsolete. Extends time for payment of loan of state moneys.

199. L. 1840, Ch. 97. Concerning loan commissioners of Montgomery county. Superseded by L. 1897, Ch. 413, § 83.

200. L. 1840, Ch. 194. Obsolete. Authorizes loan for certain public works.

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201. L. 1840, Ch. 288, §§ 1–12. Obsolete. Refers to the canal fund. The management of the canal fund is now wholly governed by L. 1897, Ch. 413, and its amendments.

202. L. 1840, Ch. 358. Obsolete. Provides for payment on loans of the state credit and for deposits of the canal moneys. Section 2 was amended to read as follows by L. 1874, Ch. 500, § 1. Section 1 is covered by L. 1897, Ch. 413, § 7.

203. L. 1841, Ch. 49. Obsolete. Concerning loan commissioners of Tioga county. Superseded by L. 1897, Ch. 413, § 83.

204. L. 1841, Ch. 238. Sections 1 and 2 are superseded by L. 1897, Ch. 413, § 63. Section 3 relates to fees of canal appraisers. Office was abolished by L. 1883, Ch. 205, § 12. Section 4 provides for disposition of tolls received on Oneida Lake canal and feeder. Canal tolls were abolished by Art. 7, § 9, of the Constitution. Sections 5–7 contain temporary provisions.

205. L. 1843, Ch. 240, § 2. Obsolete. Provides for the investment of certain surplus canal tolls.

206. L. 1845, Ch. 184. Obsolete. Appropriates certain moneys to the common school fund.

207. L. 1847, Ch. 17. Obsolete. Authorizes the loan commissioners of Putnam county to sell certain real estate.

208. L. 1847, Ch. 18. Obsolete. Makes appropriation for certain canal purposes.

209. L. 1847, Ch. 99. Provides for furnishing deed to purchasers of foreclosed mortgaged property. Superseded by L. 1897, Ch. 413, § 90.

210. L. 1847, Ch. 293. Obsolete. Concerns the payment of Suffolk county loans.

211. L. 1847, Ch. 438. Obsolete. Relates to extension of time for payment of certain bonds.

212. L. 1849, Ch. 225. Obsolete. Authorizes the issue of bonds for the canal fund.

213. L. 1850, Ch. 375, § 2. Obsolete. Defines the canal debt.

214. L. 1851, Ch. 285. Obsolete. Appropriates for canal expenses and debts.

215. L. 1851, Ch. 351. Obsolete. Appropriates from revenues of canals.

216. L. 1851, Ch. 410. Obsolete. Appropriates for certain hospitals.

217. L. 1851, Ch. 454. Obsolete. Provides that certain sums be paid annually for state library and other purposes.

218. L. 1852, Ch. 315. Obsolete. Statute cited reduces state tax provided for by L. 1842, Ch. 114. L. 1842, Ch. 114, was repealed by L. 1855, Ch. 335, § 4.

219. L. 1853, Ch. 222. Obsolete. Makes appropriation for a school house for the St. Regis Indians.

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220. L. 1853, Ch. 254. Obsolete. Appropriates for certain expenses of government then existing.

221. L. 1853, Ch. 402. Provides for the instruction of school teachers. Superseded by L. 1855, Ch. 410.

222. L. 1855, Ch. 335, §§ 2-4. Section 2 appropriates for canal fund. Section 3 gives power to borrow for canal fund and is superseded by L. 1897, Ch. 413, § 65. Obsolete. Makes appropriation to, and gives power to borrow for, the canal fund. Section 4 is a repeal.

223. L. 1856, Ch. 3. Provides for sale of lands foreclosed by loan commissioners. Section 1 was amended to read as follows by L. 1873, Ch. 73, § 2. Section 2 makes provisions of act applicable to certain mortgages. Section 3 states when act shall take effect. Obsolete.

224. L. 1857, Ch. 592. Obsolete. Appoints a commission to examine state funds and accounts and report to legislature.

225. L. 1858, Ch. 263. Obsolete. Authorizes the payment of interest on canal claims.

226. L. 1859, Ch. 149, § 5. Obsolete. Authorizes the investment of the canal debt sinking fund. Superseded by L. 1897, Ch. 413, § 61.

227. L. 1860, Ch. 213, § 6. Obsolete. Authorizes the comptroller to make temporary loan.

228. L. 1860, Ch. 490. Section 1 authorizes the payment of interest on canal claims and has served its purpose. Section 2 was amended so as to read as follows by L. 1862, Ch. 462, § 1. Section 3 covered by Canal Law. Section 4 provides when act shall take effect and is obsolete.

229. L. 1860, Ch. 494. Obsolete. Concerning a tax and the application of the same to the canal debt.

230. L. 1861, Ch, 102. Obsolete. Authorizes the investment of the surplus of the canal debt sinking fund.

231. L. 1861, Ch. 227. Obsolete. Concerning certain service claims in the war of 1812.

232. L. 1862, Ch. 25. Obsolete. Authorizes the comptroller to borrow money for the payment of volunteers in the United States army.

233. L. 1862, Ch. 29. Obsolete. Expediting payment to the volunteers in the United States army.

234. L. 1862, Ch. 223. Provides for the appointment of commissioners of public accounts and prescribes their duties. Office abolished by L. 1872, Ch. 541, §1.

235. L. 1862, Ch. 462. Obsolete. Directs treasurer to pay interest on certain existing canal debts.

236. L. 1863, Ch. 73. L. 1897, Ch. 413, § 110, purports to repeal L. 1863, Ch. 731, except § 9. In fact there were but 515

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chapters enacted that year. Doubtless chapter 73 was the act intended to be repealed. Section 9 confirms sales made by loan commissioners and is obsolete.

237. L. 1864, Ch, 170, § 4. Obsolete. Authorizes the investment of the surplus of the canal debt sinking fund to meet a certain appropriation.

238. L. 1864, Ch. 182, §§ 4, 5, and L. 1864, Ch. 185, § 4. Obsolete. Authorize the comptroller to borrow certain sums of money in anticipation of certain taxes.

239. L. 1864, Ch. 186, § 3. Obsolete. Authorizes the investment of the surplus of the canal debt sinking fund to meet a certain appropriation.

240. L. 1864, Ch. 266. Obsolete. Provides for paying interest on certain then existing canal drafts.

241. L. 1864, Ch. §§ 2, 3. Section 2 concerns the payment of certain appropriations. Section 3 covered by Executive Law. Obsolete.

242. L. 1864, Ch. 304. Obsolete. Provides for repayment from the general fund to the free school fund.

243. L. 1864, Ch. 305, § 4. Obsolete. Authorizes the transfer of certain surplus revenues of the canals.

244. L. 1864, Ch. 347, §§ 1, 3. Obsolete. Requires the comptroller to audit all claims and demands appropriated by § 2 of statute cited except fixed salaries.

245. L. 1865, Ch. 226, § 3. Obsolete. Relates to Civil War bounties.

246. L. 1865, Ch. 294. Obsolete. Provides for additional compensation of certain officials. Superseded by subsequent legislation regulating the various state departments.

247. L. 1865, Ch. 325, §§ 1-7. Section 2 was amended so as to read as follows by L. 1867, Ch. 488, § 1. The act provides means for the payment of Civil War bounties. Obsolete.

248. L. 1865, Ch. 585, § 6. Obsolete. Concerns the original appropriation of land scrip funds to the Cornell University.

249. L. 1866, Ch. 209. Obsolete. Concerning the style and form of state bonds issued by comptrollers to obtain money to pay Civil War bounties.

250. L. 1867, Ch. 488. Obsolete. Provides the interest and a sinking fund for payment of Civil War bounties.

251. L. 1867, Ch. 704. Obsolete. Concerning the sale of lands by the commissioners of the United States deposit fund. Superseded by L. 1897, Ch. 413, § 86.

252. L. 1868, Ch. 554. Obsolete. Concerning the Cornell Endowment Fund. Superseded by L. 1897, Ch. 413, § 96.

253. L. 1868, Ch. 830, § 3. Superseded by L. 1869, Ch. 645, § 3.

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254. L. 1869, Ch. 645, § 3. Consolidated in State Finance Law. § 47.

255. L. 1869, Ch. 669. Spent. Authorizes expenditure of moneys for the instruction of teachers.

256. L. 1869, Ch. 756. Obsolete. Authorizes turning back into the treasury of moneys for the payment of certain unclaimed checks.

257. L. 1870, Ch. 379. Obsolete. Authorizes commissioners of the canal fund to borrow money and the levy of a state tax for the payment of the canal and general fund debt for which tolls are pledged by the Constitution.

258. L. 1871, Ch. 654, § 2. Obsolete. Provides for the payment of canal contracts.

259. L. 1871, Ch. 718, § 3. Obsolete. Requires institutions receiving state moneys to make annual reports, but applies only to institutions entitled to receive moneys by virtue of the chapter of which this section is a part. A similar but broader provision has been made § 51 of the State Finance Law.

260. L. 1873, Ch. 760, § 2, pt. last paragraph beginning with the words "The comptroller is authorized at all times" to end of paragraph. Spent. The paragraph next succeeding the one cited from provides that the expense of the visitation and examination authorized shall be paid from the appropriation made by the same act. This indicates that the authority was to be temporary and for the fiscal year for which the appropriation was made.

261. L. 1874, Ch. 323, § 2, pt. 3d from last paragraph. Spent. The succeeding paragraph to the one cited from provides that the expense incurred under that part cited shall be paid from the moneys appropriated by the act. This indicating that it was intended to be but temporary.

262. L. 1874, Ch. 500. Obsolete. Authorizes the Canal Board to designate a bank to receive deposit of canal tolls.

263. L. 1875, Ch. 260, § 1, pt. relating to canal tolls. Obsolete; canal tolls having been abolished.

264. L. 1876, Ch. 192, § 1, pt. last paragraph. Superseded by L. 1897, Ch. 413, § 35, as added by L. 1899, Ch. 580, § 1.

265. L. 1876, Ch. 302. Obsolete. Requires the comptroller to audit and allow certain accounts for prison supplies prior to January 1st, 1876.

266. L. 1883, Ch. 364. Authorizes governor, lieutenant-governor and speaker of assembly to sell unnecessary furniture theretofore furnished any state department and provides what disposition shall be made of proceeds. Superseded by L. 1903, Ch. 342.

267. L. 1883, Ch. 517. Obsolete. Provides for the payment of the expenses of the commissioners of emigration. Temporary.

268. L. 1884, Ch. 250. Obsolete. Imposes and levies a tax for

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the sinking funds, and authorizes the investment of the revenues of such funds.

269. L. 1885, Ch. 267, §§ 5, 6. Obsolete. These sections correct errors in L. 1880, Ch. 517, since repealed.

270. L. 1886, Ch. 330, § 1, pt. beginning at "The managers, trustees," to end of section. Obsolete. Concerns the reports of state institutions; superseded by L. 1897, Ch. 413, § 17.

271. L. 1887, Ch. 460, § 1, pt. last seven paragraphs beginning with " The managers, trustees." Obsolete. This is a part of the annual supply bill and prohibits officers of state institutions from being interested in any purchase, sale or contract of any such institution, and provides for reports, forms of accounts and the regulation of certain state institutions. It is superseded by L. 1897, Ch. 413, §§ 12, 16-20.

272. L. 1887, Ch. 637. Consolidated in State Finance Law, § 103.

273. L. 1889, Ch. 570, § 1, pt. last seven paragraphs beginning "The manager, trustee or." Obsolete. This is a part of the annual supply bill and provides for reports, forms of accounts and regulation of certain state institutions. Superseded by L. 1897, Ch. 413, §§ 12, 16–20.

274. L. 1892. Ch. 651, § 9. Consolidated in State Finance Law, § 44.

275. L. 1894. Ch. 572, § 5. Obsolete. Provides for borrowing money for the requirements of the superintendent of public works. The sum borrowed to be refunded from moneys received from taxes levied to meet the appropriations made by this act. Temporary.

276. L. 1897, Ch. 413. "Old" State Finance Law as affected by subsequent legislation is consolidated in the State Finance Law under the same numbering of sections except where the numbers are changed in eliminating lettered sections or incorporating independent statutes into new sections.

277. L. 1897, Ch. 444. Sections 1 and 2 except so much of each section as relates to counties or municipal corporations consolidated in State Finance Law, § 43; so much as relates to counties or municipal corporations consolidated in General Municipal Law, § 86; section 3 repeals inconsistent acts and section 4 provides when act shall take effect.

278. L. 1898, Ch. 360. Section 1 was amended to read as follows by L. 1903, Ch. 350, § 1; section 2 was amended to read as follows by L. 1906, Ch. 575, § 1; section 7 was amended to read as follows by L. 1902, Ch. 432, § 1; balance of act consolidated in State Finance Law, §§ 81, 89, 90.

279. L. 1899, Ch. 32. Consolidated in State Finance Law, § 42.

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280. L. 1899, Ch. 458. Consolidated in State Finance Law, § 91.

281. L. 1899, Ch. 479. Consolidated in State Finance Law, § 38.

282. L. 1899, Ch. 580. Section 1, pt. adding § 37 to L. 1897, Ch. 413, was amended to read as follows by L. 1899, Ch. 715, § 1; balance of act consolidated in State Finance Law, §§ 35, 36.

283. L. 1901, Ch. 457. Section 2 was amended to read as follows by L. 1907, Ch. 561, § 1; section 1 is consolidated in State Finance Law, § 19.

284. L. 1901, Ch. 645, § 1, pt. second paragraph on page 1617 beginning "all fees, interest, and expenses" and ending "rejected by the comptroller." Obsolete. The paragraph from which the cited law is taken provides an appropriation for the comptroller to pay certain claims for local improvements made on property owned by the state.

Having in mind the provisions of section 22 of article 3 of the State Constitution, it must be held that that part of the paragraph cited relates solely to the former and that it was intended to relate only to those claims for the payment of which the appropriation was made.

285. L. 1902, Ch. 28. Consolidated in State Finance Law, § 91.

286. L. 1902, Ch. 59. Consolidated in State Finance Law, § 39.

287. L. 1902, Ch. 366. Consolidated in State Finance Law, §§ 14, 55.

288. L. 1903, Ch. 239. Consolidated in State Finance Law, § 17.

289. L. 1903, Ch. 350. Consolidated in State Finance Law, § 81.

290. L. 1904, Ch. 95. Consolidated in State Finance Law, § 5.

291. L. 1904, Ch. 448. Consolidated in State Finance Law, § 41.

292. L. 1905, Ch. 372. Consolidated in State Finance Law, §§ 8, 62.

293. L. 1905, Ch. 388. Consolidated in State Finance Law, § 40.

294. L. 1905, Ch. 504. Consolidated in State Finance Law, § 4, subd. 6.

295. L. 1905, Ch. 587. Consolidated in State Finance Law, § 80.

296. L. 1906, Ch. 575. Consolidated in State Finance Law, § 87.

297. L. 1907, Ch. 561. Consolidated in State Finance Law, § 37.

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298. Code Civil Procedure, § 20, pt. word "except" to end of section. Consolidated in State Finance Law, § 46.

299. Code Civil Procedure, § 39, pt. words "and the expense" to end of section. Consolidated in State Finance Law, § 46.

300. Code Civil Procedure, § 226, pt. last sentence. Consolidated in State Finance Law, § 46.

301. Code Civil Procedure, § 233, pt. last sentence. Consolidated in State Finance Law, § 46.

302. Code Civil Procedure, § 744, pt. relating to duty of comptroller. Consolidated in State Finance Law, § 4, subd. 8.

303. Code Civil Procedure, § 3295. Consolidated in State Finance Law, § 47.

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